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## Part II

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7 CFR Parts 271, 272 and 273

Supplemental Nutrition Assistance Program (SNAP): Eligibility, Certification, and Employment and Training Provisions; Proposed Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, and 273

RIN 0584–AD87

Supplemental Nutrition Assistance Program (SNAP): Eligibility, Certification, and Employment and Training Provisions

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** This proposed rule would implement provisions of the Food, Conservation and Energy Act of 2008 (FCEA) affecting the eligibility, benefits, certification, and employment and training (E&T) requirements for applicant or participant households in the Supplemental Nutrition Assistance Program (SNAP). The rule would amend the SNAP regulations to: Exclude military combat pay from the income of SNAP households; raise the minimum standard deduction and the minimum benefit for small households; eliminate the cap on the deduction for dependent care expenses; index resource limits to inflation; exclude retirement and education accounts from countable resources; permit States to expand the use of simplified reporting; permit States to provide transitional benefits to households leaving State-funded cash assistance programs; allow States to establish telephonic signature systems; permit States to use E&T funds to provide post-employment job retention services; and limit the E&T funding cycle to 15 months. These provisions are intended to increase SNAP benefit levels for certain participants, reduce barriers to participation, and promote efficiency in the administration of the program.

**DATES:** Comments must be received on or before July 5, 2011.

**ADDRESSES:** The Food and Nutrition Service (FNS) invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

*Federal eRulemaking Portal:* Preferred method. Go to <http://www.regulations.gov>; follow the online instructions for submitting comments on Docket FNS–2011–0008.

*FAX:* Submit comments by facsimile transmission to (703) 305–2486, attention: Lizbeth Silbermann.

*Mail:* Send comments to Lizbeth Silbermann, Director, Program Development Division, FNS, 3101 Park Center Drive, Room 810, Alexandria, Virginia, 22302, (703) 305–2494.

*Hand delivery or Courier:* Deliver comments to Ms. Silbermann at the above address.

All comments on this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the Internet via <http://www.regulations.gov>. All submissions will be available for public inspection at FNS during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Room 810, Alexandria, Virginia 22302–1594.

**FOR FURTHER INFORMATION CONTACT:** Angela Kline, Chief, Certification Policy Branch, Program Development Division, FNS, USDA, at the above address or by telephone at (703) 305–2495.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*What acronyms or abbreviations are used in this supplementary discussion of the proposed provisions?*

In the discussion of the proposed provisions in this rule, we use the following acronyms or other abbreviations to stand in for certain words or phrases:

Phrase	Acronym, Abbreviation, or Symbol
Code of Federal Regulations	CFR
<b>Federal Register</b> .....	FR
Federal Fiscal Year .....	FY
Food and Nutrition Act of 2008.	Act
Food and Nutrition Service ...	FNS or we
Food, Conservation and Energy Act of 2008 (Pub. L. 110–246).	FCEA
Food, Security and Rural Investment Act of 2002 (Pub. L. 107–171).	FSRIA
Secretary of the U.S. Department of Agriculture.	Secretary
Section (when referring to Federal regulations).	§
Supplemental Nutrition Assistance Program.	SNAP
Temporary Assistance for Needy Families.	TANF
United States Code .....	U.S.C.
U.S. Department of Agriculture.	the Department or we

*What changes in the law triggered the need for this proposed rule?*

The Food, Conservation and Energy Act of 2008 (Pub. L. 110–246) (FCEA), which was enacted on June 18, 2008, amended and renamed the Food Stamp

Act of 1977, 7 U.S.C. 2011, *et seq.*, as the Food and Nutrition Act of 2008 (the Act). The FCEA also renamed the “Food Stamp Program” as the “Supplemental Nutrition Assistance Program” (SNAP) and made numerous amendments to the benefits and operation of the program. This rule proposes to codify into the SNAP regulations 12 provisions from the FCEA and also to make conforming nomenclature changes throughout part 273 of the SNAP regulations, including the change to the program’s name. In addition, this rule proposes two changes to the SNAP certification and eligibility regulations to provide State options that are currently available to State agencies only through waiver requests. Finally, in § 273.12, this rule proposes to clarify the applicability of various provisions to different client reporting systems. The provisions included in this rule affect the eligibility, benefits, and certification of program participants as well as the E&T portion of the program.

*When were States required to implement the statutorily-based provisions covered in this rulemaking?*

The statutory provisions covered in this rule were effective on October 1, 2008. Many of the eligibility, certification and E&T provisions included in this proposed rule were mandated by the FCEA to be implemented by State agencies on October 1, 2008. These provisions with corresponding FCEA sections include:

- Section 4001—Changing the program name;
- Section 4101—Excluding military combat pay;
- Section 4102—Raising the standard deduction for small households;
- Section 4103—Eliminating the dependent care deduction caps;
- Section 4104(a)—Indexing the resource limits;
- Section 4104(b)—Excluding retirement accounts from resources;
- Section 4104(c)—Excluding education accounts from resources;
- Section 4107—Increasing the minimum benefit for small households; and
- Section 4122—Funding cycles for E&T programs.

The FCEA created new program options that State agencies may include in their administration of the program. State agencies were also permitted to implement these provisions on October 1, 2008. These provisions, which are addressed in this rule, are identified below with the corresponding FCEA section:

- Section 4105—Expanding simplified reporting;

- Section 4106—Expanding transitional benefits option;
- Section 4108—E&T funding of job retention services; and
- Section 4119—Telephonic signature systems.

Still other FCEA provisions, which are not addressed in this proposed rule, cannot be implemented by State agencies until the final regulations are issued by the Department. FNS informed State agencies of implementation timeframes for all SNAP provisions in the FCEA in a memorandum dated July 3, 2008. The information also included a basic description of the statutory provisions and can be found on the FNS Web site at: [http://www.fns.usda.gov/snap/whats\\_new.htm](http://www.fns.usda.gov/snap/whats_new.htm).

*What changes are proposed in this rule?*

#### 1. Program Name Change and Other Conforming Nomenclature Changes, Section 4001

*Why did the law change the program's name?*

Section 4001 of the FCEA changed the name of the program from the "Food Stamp Program" to the "Supplemental Nutrition Assistance Program" or "SNAP". This change in name reflects the fact that participants no longer receive stamps or coupons to make food purchases. The process of changing from paper coupons to electronic benefit transfer (EBT) cards began as a pilot project in 1984; the EBT system became available nationwide in June 2004. The FCEA de-obligated all remaining food coupons as legal tender for SNAP purchases on June 18, 2009.

Additionally, the new name reflects a focus on the nutritional aspect of the program. SNAP not only provides food assistance to low-income people, but also promotes nutrition to improve their health and well-being.

*Do State agencies have to use the new program name, SNAP?*

No. Although the official name of the program was changed on October 1, 2008, State agencies may continue to use State-specific names for SNAP. The Department has encouraged State agencies, however, to discontinue the use of the name, "Food Stamp Program".

*Did the law make other name changes?*

Yes. Section 4001 of the FCEA also changed the name of the statute that governs the program from the Food Stamp Act of 1977 to the Food and Nutrition Act of 2008. This change was also effective on October 1, 2008.

*What name changes does this rule propose to make?*

This rule proposes to make the following name changes in 7 CFR part 273 of the SNAP regulations:

<i>Previous name</i>	<i>New name</i>
Food Stamp Program.	Supplemental Nutrition Assistance Program (SNAP).
Food Stamp Act of 1977.	Food and Nutrition Act of 2008.
food stamp .....	SNAP.
food coupons	SNAP benefits or benefits.
food stamps ...	SNAP benefits or benefits.

*Will these changes be made to the other Parts of the SNAP regulations?*

Yes. We will publish other proposed or final rulemakings that will make these changes in other parts of the SNAP regulations.

*Are there extensive revisions in part 273 resulting from these nomenclature changes?*

Yes. This rule proposes to revise §§ 273.11(e) and 273.11(f) to update the procedures for providing benefits via EBT cards to residents of drug and alcohol treatment and rehabilitation centers and residents of group living arrangements. These procedures are already in use by these types of centers; only the regulatory description of the procedures is being updated.

#### 2. Income Exclusions and Deductions: Military Combat-Related Pay Exclusion, Section 4101

*What is the Combat-Related Pay Exclusion?*

Section 4101 of FCEA amended section 5(d) of the Act (7 U.S.C. 2014(d)) to exclude special pay to United States Armed Services members that is received in addition to basic pay as a result of the member's deployment or service in a designated combat zone. The exclusion includes any special pay received pursuant to 37 U.S.C., Chapter 5 and any other payment that is authorized by the Secretary. To qualify for the exclusion, the pay must be received as a result of deployment to or service in a combat zone and must not have been received prior to deployment. Combat-related pay was first authorized as a SNAP exclusion in 2005 under the Consolidated Appropriations Act of 2005 (Pub. L. 108-447). The exclusion was subsequently renewed annually through appropriation legislation.

*What is a Combat Zone?*

A combat zone is any area that the President of the United States designates by Executive Order as an area in which the U.S. Armed Forces are engaging or have engaged in combat.

*How is FNS proposing to implement this exclusion in the SNAP regulations?*

We propose to add a new paragraph (20) to § 273.9(c) to exclude combat-

related pay received by a household from a person who is serving in the U.S. Armed Forces who is deployed to or serving in a Federally-designated combat zone. We propose to define combat-related pay as income received by the household member under 37 U.S.C., Chapter 5 or as otherwise designated by the Secretary. Combat-related income is excluded if it is:

- Received in addition to the service member's basic pay;
- Received as a result of the service member's deployment to or service in an area that has been designated as a combat zone; and
- Not received by the service member prior to his/her deployment to or service in the designated combat zone.

*How would combat-related pay be verified?*

For individuals deployed to or serving in a combat zone, the amount of income received by or from the individual that is combat-related must be determined. This includes itemized combat-related payments authorized under 37 U.S.C., Chapter 5 in addition to any other combat-related payments authorized by the Secretary which were not received immediately prior to the deployment to or service in the combat zone. Although the specific means of verifying this information may vary by U.S. military service and by local area, a number of sources may be considered. Information regarding deployment to or service in a combat zone may be available via earnings and leave statements, military orders or public records on deployment of military units.

*Does all income received by the service member in a combat zone qualify for the exclusion?*

No. Only those funds authorized pursuant to 37 U.S.C., Chapter 5 or otherwise authorized by the Secretary that are provided as a result of deployment to or service in a combat zone qualify for the exclusion. Funds received by a household prior to the service member's deployment are included as household income requiring the State agency to differentiate between the service member's "regular" pay and combat-related pay to determine the excluded amount. For example, consider a service member who typically provides a household with \$500 a month prior to deployment; however, after deployment the service member receives an additional \$200 in combat-related pay and makes that pay available to the household. As a result, the family receives a total of \$700 a month, but only \$500 is counted as income because the additional \$200 is combat-related.

*Is the deployed military member considered a household member?*

Military personnel who have been deployed are not included as household members for purposes of determining SNAP benefits as they are not living with the remaining eligible members of the household. However, income made available to the household by the deployed military member is considered household income, unless it is otherwise excluded under program rules.

**3. Income Exclusions and Deductions: Standard Deduction Increase, Section 4102**

*What is the standard deduction?*

The standard deduction was established under the Food Stamp Act of 1977, which eliminated certain deductions and created a single standard deduction available to all households. The standard deduction is subtracted from a household's gross monthly income to determine a SNAP household's net income and to calculate the benefit amount, if eligible.

*How has the standard deduction changed over the years?*

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. 104–193), froze the standard deduction at \$134 for all households residing in the 48 States and the District of Columbia. The Food, Security and Rural Investment Act of 2002 (Pub. L. 107–171) (FSRIA) replaced the \$134 standard deduction with a deduction that varied according to household size and was adjusted annually for cost-of-living increases. For households in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, and the U.S. Virgin Islands, FSRIA set the deduction at 8.31 percent of the applicable net income limit based on household size and stipulated that no SNAP household may receive an amount less than the 2002 deduction amount (\$134 for most households) or more than the current standard deduction for a six-person household. Households residing in Guam receive a somewhat higher deduction.

*What changes did the FCEA make to the standard deduction?*

Section 4102 of the FCEA amended section 5(e) of the Act (7 U.S.C. 2014(e)) to raise the minimum standard deduction for one, two, or three person households from \$134 to \$144. This change was effective in FY 2009 for the 48 contiguous States and the District of Columbia. In addition, it changed the minimum standard deduction amounts for Alaska, Hawaii, the U.S. Virgin Islands, and Guam to \$246, \$203, \$127, and \$289, respectively. Beginning in FY

2010 and each fiscal year thereafter, FCEA indexed the minimum standard deduction to inflation.

*How is the minimum standard deduction indexed to inflation?*

Beginning FY 2010, the amount of the minimum standard deduction is adjusted each year on October 1 to reflect changes in the Consumer Price Index for All Urban Consumers (CPI-U) published by the Bureau of Labor Statistics of the Department of Labor, for items other than food. The amount is calculated based on the previous fiscal year amount adjusted for changes in the CPI-U for the 12-month period ending on the preceding June 30, rounded down to the nearest dollar.

*How does FNS plan to incorporate this change in the regulations?*

FNS is proposing to amend the regulations at § 273.9(d)(1)(iii) to incorporate the FCEA changes in the minimum standard deduction. In addition, FNS plans to correct the citation at § 273.12(e)(1)(B) from § 273.9(d)(7) to § 273.9(d)(1).

*How does increasing the minimum standard deduction affect eligible SNAP households?*

Increasing the minimum standard deduction strengthens the food purchasing power of low-income households, including working families with children, the elderly and disabled on fixed incomes, and individuals who have lost jobs due to economic conditions. This change will be of significant impact to smaller households of three or fewer people, primarily in the 48 contiguous States and DC, who would otherwise qualify for a smaller deduction and lower benefit amounts without the minimum standard. Adjusting the minimum standard deduction each fiscal year also protects eligible SNAP households from any future erosion in benefits due to inflation.

**4. Income Exclusions and Deductions: Eliminating the cap on Dependent Care Expenses, Section 4103**

*How does this change affect SNAP households?*

A deduction for dependent care costs is currently available when a SNAP household member must work, perform job seeking activities, attend required employment and training activities, or attend college or training in order to get a job. The deduction amount had been capped since 1993 at \$200 per month for children under the age of 2 years and \$175 for other dependents. Section 4103 of the FCEA amended section 5(e)(3) of the Act (7 U.S.C. 2014(e)(3)) by eliminating the caps on the deduction for dependent care expenses and

allowing eligible households to deduct the full amount of their dependent care costs.

*When was this change effective?*

The change was effective October 1, 2008. State agencies were required to implement the provision for new households applying for benefits as of that date. For ongoing households already on the program, the Department encouraged State agencies to implement the change in the deduction amount as soon as possible on or after October 1, 2008, on a case-by-case basis, at the first opportunity to enter the household's case file.

*Why was this change made?*

Prior to the FCEA, the caps on the dependent care deduction had not been adjusted for many years and no longer reflected the actual dependent care costs that low-income households pay. Eliminating the caps ties the deduction to actual expenses and reflects these costs in determining assistance to working families.

*How is the Department proposing to revise the deduction for dependent care costs?*

We propose to amend §§ 273.9(d)(4) and 273.10(e)(1)(i)(E) to eliminate the caps. We propose to clarify that in addition to direct payments made to the care provider for the actual cost of care, the expenses of transporting dependents to and from care and separate activity fees charged by the care provider that are required for the care arrangement are also deductible. We also propose to incorporate at § 273.9(d)(4) longstanding guidance that defines dependent care to include children through the age of 15 as well as incapacitated persons of any age that are in need of dependent care. Finally, we propose to restore language to that section that permits households to deduct dependent care costs if a household member needs care for a dependent in order to seek employment. This provision was inadvertently removed from the regulations as part of a 1989 technical amendment to the regulations. Dependent care costs would be deductible for job seeking household members who are either complying with E&T requirements or an equivalent State agency job search requirement.

*What are actual costs of care?*

Section 5(e)(3) of the Act specifies that the actual costs that are necessary for the care of a dependent may be deducted if the care enables a household member to accept or continue employment, or to participate in training or education in preparation for employment. In the preamble to the proposed rule to implement the provisions of the Food Stamp Act of 1977 (43 FR 18890), published on May

2, 1978, FNS stated that the dependent care deduction applies only to the direct compensation to the care provider. Since then, FNS has provided guidance on specific situations to determine “actual costs of care” or whether care was needed for employment or to prepare for employment. In some instances, this limited guidance defined these costs more broadly than the 1978 interpretation, particularly concerning the transportation of dependents to and from care.

*What are other dependent care expenses?*

In addition to direct payments to the care provider, we propose to permit households to deduct other out-of-pocket costs that are part of the total cost of dependent care incurred by SNAP households and necessary for the household to participate in or maintain the care arrangement. The following types of dependent care expenses would be deductible under this proposal:

- Transportation costs to and from the care facility; and
- Activity fees associated with structured care programs.

Only those expenses that are separately identified, necessary to participate in the care arrangement, and not already paid by another source on behalf of the household would be deductible. Under current SNAP regulations at § 273.2(f)(2) and § 273.2(f)(3), State agencies may require households to verify any dependent care expenses and must verify any questionable information.

*Why include transportation?*

The Department has three reasons for including the expenses of transportation as part of the actual costs of dependent care. First, the removal of the dependent care caps by the FCEA indicates an important shift by Congress in recognizing that associated costs represent a major expense for working households. Second, a consistent national policy on this issue is needed. Despite FNS’ initial interpretation (in the preamble to the 1978 proposed rule) limiting dependent care deductible expenses to direct payments to a dependent care provider, subsequent interpretations indicated that the cost of transporting dependents to and from care facilities were allowable. In the absence of a consistent national policy, some State agencies developed policies that permit the deduction of transportation costs and other dependent care costs. Third, during the floor discussions in both houses of Congress prior to the passage of the FCEA, members of Congress expressed support for allowing the deduction of transportation costs.

*What are activity fees and why include them?*

An activity fee is an expense associated with a structured care program. Examples of activity fees that may be deductible under this proposal include:

- The cost of an art class for an after school program or an adult day care program;
- Additional fees charged for attending a sports camp; and
- The cost of field trips sponsored by summer camps.

The Department views the elimination of the dependent care caps as an indication of Congress’ recognition of the importance of affordable, reliable, and safe care for the children or other dependents of SNAP households. Dependent care involves many different types of costs, including fees charged for activities that are part of structured dependent care programs, such as before and after school care, summer camps, or adult day care. For older children, dependent care expenses are more likely to include costs for participating in recreational or educational enrichment activities. As with other dependent care costs, a key to allowability of an activity fee is whether the activity enables a household member to be employed or pursue training or education to prepare for employment. To count toward the household’s dependent care expenses, activity fees would have to be specific and identifiable additional costs.

Since State agencies would be responsible for determining the allowability of specific costs claimed as activity fees, we encourage States and local agencies to provide comments on this proposal. Commenters might consider addressing the following questions: Are activity fees identifiable additional charges paid by households that can be verified? Is more detailed guidance needed to determine allowable costs, and what specific conditions would commenters wish to see in a final rule?

*Why set the upper age limit for child care at 15 years of age?*

As previously mentioned, FNS’ longstanding policy permits dependent care expenses for children from birth through age 15 to be deductible. This upper age limit for children stems from requirements at section 6(d)(1)(A) of the Act (7 U.S.C. 2015(d)(1)(A)) and § 273.7(a) of the regulations that SNAP household members who turn 16 must register for work unless they are attending school at least half-time or are otherwise exempt from work registration. Although we have consistently indicated age 15 as the upper age limit for allowable dependent

care expenses in response to specific situations, a formal nationwide policy has not been issued. Since questions about the upper age limit for deductible child care expenses continue to arise occasionally, this rule provides an opportunity to propose to codify FNS policy.

*Are there any age restrictions on dependent care expenses for disabled persons?*

No. Since a person can become incapacitated at any age and thus require dependent care, we propose to specify that dependent care costs for an incapacitated person of any age would be deductible. Although this proposal does not tie the allowability of dependent care expenses for incapacitated adults to the SNAP regulatory definition of “elderly or disabled member”, we think that any adult requiring dependent care would be either disabled or elderly. The SNAP regulations at § 271.2 of this chapter define “elderly or disabled member” as someone who is 60 years of age or older or is determined to be disabled based on receipt of specific payments such as SSI, veterans’ disability benefits, or other disability or retirement payments. Disability must be verified per § 273.2(f)(1)(viii). We welcome comments on whether adult dependent care expenses should be limited only to adults that meet the regulatory definition of “elderly or disabled member”.

*5. Resources: Asset Indexation, Section 4104*

*What changes did the law make to resource limits for SNAP households?*

Section 4104(a) of the FCEA amended Section 5(g) of the Act (7 U.S.C. 2014(g)) to mandate that the current asset limits be indexed to inflation, rounding down to the nearest \$250 beginning October 1, 2008.

*How does the Department propose to index assets?*

Current regulations at § 273.8(b) limit SNAP households without disabled or elderly members to a maximum of \$2,000 in resources and SNAP households with disabled or elderly members to a maximum of \$3,000 in resources. This rule proposes to revise § 273.8(b) by indexing the current asset limits to inflation. Section 4104(a) of the FCEA mandated that the Department use the CPI-U published by the Bureau of Labor Statistics of the Department of Labor. Starting October 1, 2008, and each October 1 thereafter, the maximum allowable resources would be adjusted based on the previous year’s rate of inflation. The value of a household’s

resources would be rounded down to the nearest \$250 increment.

*Why change the asset limits?*

These changes allow the resource limits to keep pace with inflation. Without this indexation, the maximum allowable resources would remain constant even as the prices of goods and services rise.

*When does the Department estimate that the maximum allowable resources will increase?*

The Department estimates that the maximum allowable resources will not increase until FY 2013.

**6. Resources: Exclusion of Retirement Accounts From Resources, Section 4104**

*How would the proposed rule affect retirement accounts?*

Consistent with Section 4104(b) of the FCEA (Section 5(g)(7) of the Act), we propose to exclude all funds that are in tax-preferred retirement accounts from countable resources when determining eligibility for SNAP. This proposed revision would amend the SNAP regulations at § 273.8(e)(2)(i).

*Which retirement accounts would be excluded?*

The proposed rule would exclude funds from countable resources if they are in accounts that fall under any of the following sections of the Internal Revenue Code of 1986 (Title 26 of the United States Code) (IRC): 401(a), 403(a), 403(b), 408, 408A plans, 457(b), 501(c)(18).

IRC Section 401(a) plans include simple 401(k) plans and traditional 401(k) plans. Simple 401(k) plans are for small businesses, are subject to some limitations on employer contributions, and are exempt from some restrictions. Other 401(k) plans, also referred to as “cash or deferred arrangement” (CODA) plans, allow employees to defer compensation in the plan.

IRC section 403(a) plans are funded through annuity insurance. Section 403(b) plans are also called “tax sheltered annuities” or “custodial account plans”, are available to tax exempt nonprofit organizations and public schools, and are often funded through employee contributions.

Section 408 of the IRC describes Individual Retirement Accounts and Annuities (IRAs), including simple retirement accounts and Simplified Employee Pension Plans (SEPs). IRAs are controlled by individuals rather than employers. Simple retirement account IRAs are only available to small businesses. SEPs are sponsored by small business employers and allow the employer to add funds to the account and function like IRAs.

Roth IRAs are described in Section 408A of IRC. Qualified distributions to Roth IRAs are tax-free.

Section 457 of IRC describes funded plans provided by State or local governments and unfunded plans offered by nonprofit organizations.

The proposed rule would also exclude all funds in a Federal Thrift Savings Plan (5 U.S.C. 8439). Federal Thrift Savings Plans are plans offered by the Federal government to its employees.

*Why is the Department proposing to maintain discretion over future retirement accounts?*

The FCEA provides the Secretary with discretion to exclude future retirement accounts should new types of retirement accounts develop. Thus, the proposed rule would allow the Department to exclude any subsequently created retirement accounts that are exempt from Federal taxes. This would allow the Department to maintain consistency with regard to its treatment of retirement accounts.

**7. Resources: Exclusion of Education Accounts From Resources, Section 4104**

*How does the proposed rule affect the treatment of education savings accounts?*

Consistent with Section 4104(c) of the FCEA, which amended Section 5(g)(8) of the Act (7 U.S.C. 2014(g)(8)), the proposed rule would exclude all tax-preferred education savings accounts from resources when determining SNAP eligibility. This proposed provision would amend the SNAP regulations by adding a new paragraph at § 273.8(e)(20).

*Which education savings accounts would be excluded?*

We propose to exclude all funds in education savings accounts from resources if the fund is described in section 529 or section 530 of the IRC. Section 529 of the IRC describes qualified tuition programs that allow a contributor to contribute funds or purchase tuition credits for qualified education expenses for a designated beneficiary. Section 529 plans can only be used for qualified higher education expenses for tuition, fees, books, supplies, and equipment.

Section 530 of the IRC describes Coverdell Education Savings Accounts, formerly known as “Education Individual Retirement Accounts”. Coverdell Education Savings Accounts are trusts created to pay the education expenses of the designated beneficiary. The funds in a Coverdell Education Savings Account can be used for any qualified higher education expense or any qualified elementary and secondary education expense. These expenses

could be for tuition, fees, tutoring, books, uniforms, room and board, transportation, supplies, and other equipment.

*How does the Department propose to handle future changes to education savings accounts?*

As with the retirement accounts, the FCEA provides the Secretary with discretion to exclude subsequent education savings accounts. Thus, this rule proposes that the Department maintain discretion over future tax-preferred education savings accounts. This would permit the Department to maintain consistent policy concerning education saving accounts should the IRC develop new types of tax-preferred education savings accounts.

**8. State Options From the FCEA: Expansion of Simplified Reporting, Section 4105**

*What is simplified reporting?*

Simplified reporting is an option available to State agencies under SNAP regulations at § 273.12(a)(5) that requires minimal household reporting in comparison to the other types of household reporting systems that are available to State agencies under the SNAP regulations. During the certification period in a simplified reporting system, a household must only report when the following occurs:

- Gross monthly income exceeds the SNAP gross monthly income standard, which is set at 130 percent of the Federal income poverty guidelines; or
- The work hours of an able-bodied adult without dependents (ABAWD) falls below the minimum average of 20 hours.

In addition, a household may also be required to submit a periodic report, generally about halfway through the certification period, for which certain changes that have occurred since certification must be reported. The reporting requirements for the periodic reports are limited in number and scope by Federal regulations, which have benefitted SNAP households as well as State agencies. Because of the reduced reporting burden, simplified reporting has afforded relatively stable benefit levels for households. In addition, with fewer periodic reports to process, simplified reporting has reduced State agencies’ administrative workload as well as error rates. The popularity of simplified reporting has grown steadily since its addition to the regulations in November 2000; today, almost all State agencies place most households certified for at least 4 months on simplified reporting.

*How did the law expand simplified reporting?*

Section 4105 of the FCEA removed a restriction in section 6(c)(1)(A) of the Act (7 U.S.C. 2015(c)(1)(A)) that prohibited periodic reporting for certain households. The households included homeless, migrant and seasonal farm workers, and disabled or elderly adults in households with no earnings. This restriction discouraged State agencies from including these households in their simplified reporting systems. The FCEA eliminated the ban on periodic reporting by these households but limited the frequency with which State agencies may require these households to file periodic reports. As a result, effective October 1, 2008, State agencies may place all households on simplified reporting, allowing elderly, disabled, homeless, and migrant and seasonal farm worker households to participate with only minimal change reporting requirements.

*What is the statutory limit for periodic reports for elderly, disabled, homeless and migrant or seasonal farm worker households?*

As amended by the FCEA, Section 6(c)(1)(A) of the Act limits the frequency of periodic reporting for homeless and migrant or seasonal farm worker households to every 4 months and for households in which all adult members are elderly or disabled with no earned income to once a year. The 4-month limitation on reporting frequency for homeless and migrant or seasonal farm worker households is consistent with current periodic reporting requirements. To be consistent with current law, regulations published on January 29, 2010 (75 FR 4912), specified the periodic reporting limitation of once per year for the elderly or disabled households with no earned income.

*How does this rule propose to implement the statutory change to simplified reporting?*

We propose to clarify in § 273.12 the periodic reporting requirements and frequency of required periodic reporting for all households that are placed under the State agency's simplified reporting system. These revised provisions are located at proposed paragraphs (d)(6)(iii)(A) and (d)(6)(iii)(B), respectively.

*What other changes are proposed for § 273.12?*

We are proposing to reorganize § 273.12 to improve the readability of the section and to clarify aspects of current reporting requirements applicable under each reporting system. Currently, there are four SNAP client reporting systems. Three of these client reporting systems are covered in § 273.12, as noted below:

- Change reporting—§ 273.12(a), (b), (c), and (d);
- Quarterly reporting—§ 273.12(a)(4), (b), and (c);
- Simplified reporting—§ 273.12(a)(5), (b), and (c); and
- Monthly reporting—§ 273.21.

We propose to reorganize and clarify the requirements for the reporting systems currently covered under § 273.12, as noted above. The reason for this is that all State agencies are currently using one or more of the reporting systems that are currently contained in § 273.12 for the majority of their SNAP households. States' use of monthly reporting, located in § 273.21, is now negligible. We recognize that further reorganizations will probably be needed in future years to keep pace with the continuing evolution of client reporting requirements in SNAP. A future issue may be whether to remove regulations concerning a reporting system that is no longer utilized by any State agency.

*What is the rationale for revising § 273.12?*

Like most sections in part 273, which covers the certification and eligibility requirements for SNAP households, § 273.12 was initially written in the late 1970's to incorporate the provisions of the Food Stamp Act of 1977. At that time, client reporting requirements were contained under a single "change reporting" system. Later, § 273.12 was amended to add other client reporting options in addition to change reporting, without always completely identifying which of the required change reporting provisions also applied to the other reporting systems. Other incremental changes were made to reporting requirements over time as well. As a result, the regulations on specific provisions of various reporting systems are unclear. This lack of clarity is particularly noticeable in paragraphs (b), (c), and (d) of the current § 273.12, which cover requirements for report forms, State agency action on changes, and household failure to report, respectively.

*How is FNS proposing to reorganize the section?*

We propose the following paragraphs for § 273.12:

- Paragraph (a) General requirements;
- Paragraph (b) Change reporting;
- Paragraph (c) Quarterly reporting;
- Paragraph (d) Simplified reporting;
- Paragraph (e); Mass changes; and
- Paragraph (f) Optional reporting requirements for public assistance (PA) and general assistance (GA) households.

Paragraph (a) would describe the general requirement for household reporting, identify the reporting systems

currently permitted under the regulations, and list the location in the regulations for the client reporting systems.

Paragraphs (b), (c), and (d) would describe the requirements appropriate to change, quarterly, and simplified reporting systems, respectively, addressing the following topics:

- Features;
- Included households;
- What households must report;
- Special procedures for child support payments;
- How households must report;
- When households must report;
- When households fail to report; and
- State agency action on changes.

The provisions for State agency implementation of mass changes and reporting options for PA and GA households, currently located at paragraphs (e) and (f) of this section would remain unchanged other than nomenclature changes.

FNS is interested in commenters' thoughts on this proposed revision. We think that there are positive aspects to using a systematic approach to describe the requirements for each respective reporting system. The most important advantage will be the ease in locating all requirements pertinent to each reporting system. In addition, we think that this revision will enable State agencies to compare the relative advantages and disadvantages of each reporting system more easily. The drawback to this approach is a certain amount of redundancy that will increase the overall length of the section.

*Is FNS proposing any clarification of reporting requirements beyond just a reorganization of § 273.12?*

Yes. Although our primary intention is to explain the requirements of each reporting system covered in § 273.12 in a more logical and consistent manner, we are also proposing to clarify aspects of certain reporting requirements. These clarifications include:

- *Household requirement to report changes in liquid resources.*

We are proposing three clarifications that would apply to households subject to change, quarterly, and simplified reporting. First, we propose to clarify that elderly and disabled households would only report changes when liquid resources (*i.e.*, cash, money in checking or savings accounts, saving certificates, stocks or bonds, and lump sum payments) reach or exceed the maximum amount permitted for these households under the Act. Second, we propose to specify that the maximum resource levels for elderly and disabled households and for all other households (currently set at \$3,000 and \$2,000,

respectively) will reflect adjustments for inflation under proposed § 273.8(b)(1). Third, we propose language that would exempt households from reporting changes in liquid resources if the State agency excludes resources for categorically eligible households. Current FNS guidance provides a blanket waiver from the resource limitation reporting requirements for categorically eligible households, as provided under § 273.2(j)(2)(v).

- *Household requirement to report changes in vehicle acquisition.* We propose to clarify that households will not have to report changes in vehicle acquisitions that are not fully excludable under SNAP regulations if the State agency uses TANF vehicle rules, as provided under § 273.8(f)(4). Current FNS guidance provides for a blanket waiver of this reporting requirement if the State agency is using TANF vehicle rules in lieu of SNAP vehicle rules.

- *Standardization of certain reporting requirement features.* We are proposing to clarify that certain basic features currently applicable to one or more reporting systems are applicable to all three reporting systems covered in § 273.12. These features include permitting households under a change reporting system to report changes by fax, e-mail, or through a State agency's Web site; specifying that the change report form must be written in clear, simple language and must meet SNAP bilingual requirements; and specifying that reporting requirements for applicants (currently located at § 273.12(a)(3)) and provisions describing permissible claim action by State agencies when households fail to report (currently located at § 273.12(d)) apply to quarterly and simplified reporting systems as well as change reporting systems.

#### 9. State Options From the FCEA: Transitional Benefits Alternative, Section 4106

##### *What is the transitional benefit alternative (TBA)?*

TBA is an option provided at Section 11(s) in the Act (7 U.S.C. 2020(s)) that permits State agencies to offer transitional SNAP benefits to households leaving certain public assistance programs. TBA was incorporated into the SNAP regulations at § 273.12(f)(4) by a final rule, "Noncitizen Eligibility and Certification Provisions of Pub. L. 104-193", published on November 21, 2000 (65 FR 70183). TBA ensures that households that are leaving public assistance programs can continue to meet their nutritional needs as they transition from

public assistance to the workforce. TBA guarantees a fixed SNAP benefit amount and eliminates reporting requirements during the transition period, which is up to five months. During this time, households receive SNAP benefits that equal the amount received immediately prior to the termination of TANF benefits, with adjustments made for the loss of TANF.

##### *How did the FCEA change this option?*

Section 4106 of the FCEA amended Section 11(s)(1) of the Act to permit State agencies to provide transitional SNAP benefits to households with children that cease to receive cash assistance under a State-funded public assistance program. Prior to this change in the law, States were able to provide transitional SNAP benefits only to households that stopped receiving Federally-funded TANF assistance. FCEA sought to provide similar treatment of State-funded programs, similar in purpose to TANF assistance.

##### *How will this change affect SNAP households?*

This provision enables State agencies to extend TBA to additional households with children that are being terminated from State-funded public assistance that is similar to TANF but not funded through TANF. For some households, this could mean an additional period of TBA eligibility if the State has a cash benefit program that follows after TANF ends. For other households that did not receive TANF, it provides an opportunity for stabilized SNAP benefits after the State-funded assistance program ends.

##### *What types of assistance programs would qualify under this provision?*

As specified in the Act at Section 11(s)(1)(B), eligible programs are those funded by States that provide cash assistance to families with children. These state-funded cash assistance programs would be separate from State-level TANF funding streams. An example of an eligible program would be a State general assistance program that provides cash assistance to families with children. Programs that would not be eligible under this provision include programs that are funded by local level governments and programs that do not provide a cash benefit.

##### *Is it possible for a household to receive TBA more than once—first, when the TANF benefits end and again, when the State-funded cash assistance (SFCA) ends?*

Yes, provided that certain conditions exist. First, the household must be qualified to receive transitional benefits based on State agency criteria, which must be described in the State plan of

operation, per § 273.26. Second, the SFCA must meet the criteria in Section 11(s)(1)(B) of the Act as described above—that is, it must provide SFCA to families with children. Third, the SFCA must be provided after the family is terminated from TANF.

##### *How does the Department propose to implement this provision?*

We propose to amend State plan requirements at § 272.2(d)(1)(H) and subpart H in part 273 of the SNAP regulations, to specify that household's eligibility for TBA may be based on SFCA in addition to TANF. We propose to specify that a household may qualify for an additional TBA period if it participates in a SFCA program that continues after TANF has ended. We also propose that in administering TBA based on SFCA, State agencies would follow the same procedures they currently use to administer TBA based on TANF. In making this change, we propose to add SFCA to numerous provisions in subpart H of part 273, which include:

- § 273.26—introductory paragraph and paragraph (a);
- § 273.27—paragraphs (a) and (c);
- § 273.29—paragraphs (c) and (d); and
- § 273.32.

#### 10. Increasing Benefits for Small Households: Minimum Benefit Increase, Section 4107

##### *How did the FCEA increase minimum benefit amounts?*

Section 4107 of the FCEA amended section 8(a) of the Act (7 U.S.C. 2017(a)) to increase the minimum benefit amount for one and two-person households from \$10 to 8 percent of the maximum allotment for a one-person household, rounded to the nearest whole dollar. The maximum allotment is based on the Thrifty Food Plan (TFP) (Section 4(u) of the Act (7 U.S.C. 2013(u) and 7 CFR 271.2). For FY 2009, this change effectively increased the minimum allotment from \$10 to \$14 for households in the 48 contiguous States and the District of Columbia (.08 × the one-person TFP of \$176 = \$14, rounded to the nearest whole dollar). The American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111-5) further increased the minimum monthly benefit amount for these households from \$14 to \$16 by raising the maximum allotment, which is used in the minimum benefit calculation (.08 × the increased one-person TFP of \$200, rounded to the nearest whole dollar), effective April 1, 2009. SNAP households residing in Alaska, Hawaii, Guam, and the U.S. Virgin Islands receive somewhat higher minimum



benefit amounts since these geographic areas have higher TFP amounts, reflecting higher food prices in these areas.

*How does FNS propose to incorporate this change in the regulations?*

We propose to amend the regulations at § 273.10(e)(2)(ii)(C) to incorporate the FCEA provision indexing the minimum benefit amount to 8 percent of the maximum allotment for a one-person household, rounded to the nearest whole dollar. In addition, FNS proposes to update the definition of “minimum benefit” in § 271.2 to remove the reference to the former minimum benefit amount of \$10 and specify that the minimum benefit shall be based on the provisions of § 273.10.

*How does increasing the minimum benefit affect SNAP households?*

The Food Stamp Act of 1977 established a monthly minimum benefit of \$10 per month for one- and two-person households, and the amount has not been adjusted since that time. As a result, this minimum benefit no longer purchases the same amount of food today as it did more than 30 years ago. Since the TFP is adjusted each fiscal year to reflect price changes, tying the minimum benefit amount to the TFP maintains the purchasing power for smaller households and ensures that future minimum benefit amounts reflect increases in food prices.

#### 11. Employment and Training (E&T): Funding for Job Retention Services, Section 4108

*What changes did the law make in E&T program components?*

Section 6(d)(4) of the Act (7 U.S.C. 2015(d)(4)) specifies components that State agencies must include as part of E&T programs. Current regulations at § 273.7(e)(1) provide that a State agency must include one or more of the following components:

- A job search program;
- A job search training program;
- A workfare program;
- A work experience and/or training program;
- A project, program or experiment aimed at accomplishing the purpose of the E&T program;
- Educational programs or activities; and
- A program to improve the self-sufficiency of recipients through self-employment.

Section 4108 of the FCEA amended Section 6(d)(4) of the Act to add a new E&T component. Under the amendment, State agencies are allowed to provide job retention services for up to 90 days to an individual who secured employment after receiving other

employment/training services under the E&T program offered by the State agency.

*What are job retention services?*

The Department proposes to amend § 273.7(e)(1)(viii) of the SNAP regulations to define job retention as services provided to individuals who have secured employment to help achieve satisfactory performance, keep the job, and to increase earnings over time. Such services and reimbursable participant costs may include but are not limited to:

- Counseling;
- Coaching;
- Support services;
- Life skill classes;
- Referrals to other services;
- Clothing required for the job;
- Equipment or tools required for the job;
- Test fees;
- Union dues; and
- Licensing and bonding fees.

*Can job retention services be provided to individuals after their benefits have ended?*

State agencies electing to provide job retention services may extend these services to households leaving SNAP up to the 90 day limit. Job retention services are a time-limited training and support process that assist the individual in assessing job needs and provides assistance and resources as needed. As the individual gains job independence, less assistance is required and the goal of self-sufficiency is achieved. Therefore, the State agency may provide job retention services to individuals losing benefits as a result of increased earnings, consequently, keeping households on track to independence and reducing the possibility of returning to the program.

*Would an individual who refuses to accept job retention services be considered an ineligible household member?*

Under current regulations at § 273.7(f)(1), a non-exempt individual who fails to comply without good cause is ineligible. Under a strict interpretation of Section 6(d)(1) of the Act (7 U.S.C. 2015(d)(1)), an E&T participant who obtains suitable employment, remains eligible, and fails to accept job retention services may be considered non-compliant. Imposing a penalty on an employed, otherwise eligible individual for choosing not to accept job retention services would place an undue burden on the household and would only serve to block the path to self sufficiency.

Current rules at § 273.7(e)(4) allow voluntary participation in program components without penalty for failure

to comply with E&T requirements. The Department proposes that otherwise eligible individuals be treated the same as a volunteer if the individual elects not to accept job retention services offered by the State agency. Such individuals would not be subject to E&T program participation requirements imposed by the State agency. Failure to participate in a job retention program would not result in disqualification.

*How did the changes in the law affect voluntary participants?*

Section 4108 of the FCEA also modified Section 6(d)(4) of the Act (7 U.S.C. 2015(d)(4)) to permit individuals voluntarily participating in employment and training programs to participate beyond the required maximum of a number of hours based on their benefit divided by the minimum wage. The Department is proposing to amend current rules at § 273.7(e)(4)(iii) to indicate that voluntary participants are not subject to the limitations specified in § 273.7(e)(3) which limit the number of hours spent in an E&T component. Under current regulations the total amount of time spent each month by a participant in an E&T work program, combined with hours worked in a workfare program, and hours worked for compensation must not exceed 120 hours. The total number of hours, which the State agency can mandate (120 hours), would be unaffected.

#### 12. State Options From the FCEA: Telephonic Signature Systems, Section 4119

*What is the statutory authority for these proposed changes?*

Section 4119 of FCEA amended section 11(e) of the Act (7 U.S.C. 2020(e)) to permit a State agency to accept spoken signatures, subject to certain conditions. Congress used the term “recorded verbal assent” in the statute. In this proposed rule, the Department uses the term “spoken signature” to reflect the range of changes regarding signatures for households’ SNAP documents.

*What are SNAP’s current regulations regarding signatures?*

SNAP’s current regulations at § 273.2(c)(1) provide for handwritten and electronic signatures. There is no mention of spoken signatures, or of gestured signatures, for those individuals unable to provide spoken assent. By gestured signatures, the Department means a household’s attestation or assent through a purely visual language, like American Sign Language (ASL).

The Department’s current policy, which would remain in place under this proposed rule, is two-fold:

- A State agency must accept handwritten signatures from applying households, and
- No State agency must accept unwritten signatures if it chooses not to do so.

In particular, the Department has consistently recommended that every State agency consult legal counsel to verify that the verbal assent constitutes a valid signature pursuant to State law.

*What is the Department proposing about signatures for SNAP applications?*

Essentially, the Department is proposing four changes regarding signatures for SNAP applications:

- To implement Section 4119 of the FCEA by stating clearly that a State agency may accept spoken signatures;
- To implement that statute's restrictions on spoken signatures;
- To apply those restrictions to other signatures, both written and unwritten; and
- To permit gestured, or visual signatures, as an alternative for those individuals who are unable to provide spoken verbal assent.

These proposed changes would apply to applications submitted at initial certification and recertification and to reports required to be submitted under the client periodic reporting systems allowed by SNAP regulations (monthly, quarterly, or simplified reporting systems).

*What is a spoken signature?*

A spoken signature is intended to include means of assenting to information other than written or electronic. An obvious example would involve an interactive interview with a SNAP household over the telephone. The State agency would elicit responses from the household. At the end of the interview the household would agree that the information is correct and that the household understands its rights and responsibilities. An audio recording of the agreement would be made and linked to the case. That spoken agreement is one example of a spoken signature. The interactive interview and the signature then become part of the household's permanent case record.

*May a State agency accept spoken signatures?*

Yes, subject to certain requirements, which are discussed later.

*Must a State agency accept spoken signatures?*

No. This would be a matter for each State agency to decide. However, the Department encourages State agencies to explore this format because of the benefit that it provides to households. For example, people with less acute vision or limited mobility would be able to apply more easily and State agencies

could accept applications and conduct interviews over the telephone with less administrative burden.

*What are the specific conditions for spoken signatures?*

The Department is proposing three conditions that the Act contains and one additional condition. First, section 11(e)(2)(C)(iii)(IV) of the Act (7 U.S.C. 2020(e)(2)(C)(iii)(IV)) requires a State agency to give a household a written copy of the completed application, along with simple instructions for correcting errors or omissions. Although the copy need not be a transcript of the conversation, the copy must contain the information that the State agency uses to determine the household's eligibility and to calculate its SNAP benefit. Since the State agency wants to provide the household with a correct determination, it is in the State agency's interest to ensure that the information in its possession is accurate and complete. The interests of the State agency, the household, and the Department conform exactly on this point.

Second, the Act (at Section 11(c)(iii)(VI), 7 U.S.C. 2020(c)(iii)(VI)) requires the State agency to treat the date of the spoken signature as the date of application. Section 11(e)(2)(B)(iv) of the Act (7 U.S.C. 2020(e)(2)(B)(iv)) requires that the date of application is the date on which a signed application with the applicant's name and address arrives at the State agency's office. In the case of a spoken signature, that signature would arrive at the State agency's office as it is being transmitted, in other words, on that very day. This would eliminate the delay in the filing date that occurs when submitting a paper application via mail, thereby improving client access.

Third, under the Department's proposal, a State agency's system for accepting spoken signatures would have to comply with SNAP's bilingual requirements for the use of appropriate bilingual personnel and printed material in the administration of the program. Section 11(e)(1)(B) of the Act requires a State agency to "comply with regulations of the Secretary requiring the use of appropriate bilingual personnel and printed material in the administration of the program in those portions of political subdivisions in the State in which a substantial number of members of low-income households speak a language other than English". These bilingual regulations are found at § 272.4(b) of this chapter.

Fourth, the Department is also proposing that the State agency give the household at least ten days to return any corrections. This is SNAP's current standard for providing verification; a

consistent standard would simplify the situation for both the household and the State agency.

*May a State agency accept electronic signatures?*

Yes. Current program rules at § 273.2(c)(1) allow an agency to accept electronic signatures. This proposed rule clarifies that this provision is subject to the same restrictions and conditions the Department is proposing for spoken signatures that were discussed above. This is SNAP's current policy, and allows State agencies to continue to explore and to adopt these technologies as a way to improve their service to households and to simplify their management of SNAP cases.

*If a State agency accepts electronic, spoken, or gestured signatures anywhere in the State, must it do so statewide?*

No. The Department is not proposing that any such system be statewide. We are taking this approach for two reasons. First, a State agency may want to phase such a system into place over a long period of time. This would be particularly true in a State that was adopting other administrative enhancements, like new computer systems and call centers. Second, some State agencies supervise SNAP, but it is the States' counties that actually administer SNAP. In those States, some counties or groups of counties may be capable of accepting these other forms of signatures, while others may not use those technologies. The Department does not want to delay the use of these new systems until a State agency could operate them statewide.

The only signature format that would be statewide, as required in section 11(e)(2)(C)(iii)(III) of the Act, is the handwritten signature.

*What does the Department mean by a gestured signature?*

Although this is not currently used in the administration of SNAP, it is conceivable that a State agency would want to conduct an interview over a video link. In such a situation, an applicant with limited hearing could converse with the State agency in a language other than English, like American Sign Language (ASL) or another form of Manually Coded English (MCE), to use two examples.

*Why is the Department proposing that gestured signatures be acceptable?*

There are three reasons. First, it provides those with less acute hearing equal access to SNAP and promotes program access for these individuals.

Second, the Department does not want to impose the unnecessary burden of a handwritten signature if a State agency considers a gestured signature to

be legally sufficient under its own State laws.

Third, the Department envisions a gestured signature to be part of an interactive interview as described above regarding spoken signatures. If a gestured signature is acceptable to a State agency, there would be no reason to treat those with less acute hearing differently from those with more acute hearing.

*Would all the restrictions and conditions about spoken and electronic signatures also apply to gestured signatures?*

Yes, and for the same reasons.

*Could a State agency require a household to provide an unwritten signature of any type?*

No. The Act at section 11(e)(2)(C)(iii)(III) prohibits a State agency from taking any action to “deny or interfere with the right of the household to apply in writing”. In addition, the SNAP regulations already provide that a State agency must make applications available to potential applicants and to other interested parties. For these reasons, the Department is proposing rules that will make it absolutely clear that a household has the right to obtain a printed application, to sign that application in writing, to submit that signed application, and thus to begin the process of application.

Handwritten communication is convenient, portable, and completely independent of modern technology. It is available to almost everyone. So while spoken signatures are extremely useful, particularly for those with less acute vision, the household’s right to submit a handwritten signature must be preserved.

*What changes is the Department proposing about handwritten signatures?*

Only one, regarding signing with an “X”. In 1980, FNS issued a policy memorandum that accepted an “X” as a valid signature. However, at that time FNS required that someone sign the application as a witness. The witness could be the person who accepted the application on the State agency’s behalf. The Department’s current policy is that a signature is acceptable if the State agency accepts it. So the Department is proposing to add “X” as an acceptable signature if the State agency decides that it is acceptable, and to remove the requirement that the “X” be witnessed. However, a State agency could continue to require a witness if the State’s law requires it.

*What are the requirements that the Department is proposing to place on all signatures?*

The Act at section 11(e)(2)(C)(iii) requires that a State agency’s system for spoken signatures meet certain requirements. We propose to extend the following requirements to all types of signatures:

- Record for future reference the assent of the household member and the information to which assent was given;
- Include effective safeguards against impersonation, identity theft, and invasions of privacy;
- Not deny or interfere with the right of the household to apply in writing;
- Promptly provide to the household member a written copy of the completed application, with instructions for a simple procedure for correcting any errors or omissions (except that this requirement does not apply to an application that a household signs by hand);
- Comply with the SNAP regulations regarding bilingual requirements; and
- Satisfy all requirements for a signature on an application under this Act and other laws applicable to SNAP, with the date on which the household member provides verbal assent considered as the date of application for all purposes.

*Why is the Department proposing that all signatures meet these conditions?*

These are sound administrative practices which will enhance both SNAP’s integrity and households’ security. With the exception of the provision about safeguards, these conditions are essentially already in place. Current SNAP regulations already require a State agency to maintain records, already define the date of application consistent with this provision, and already impose bilingual standards.

With regard to safeguarding privacy, the Department does not think that this requirement would be a significant burden to a State agency. State agencies already protect households’ privacy by observing the regulations on the confidentiality of households’ records (§ 272.1(c)) and by prudent administrative practices.

*How would a State agency protect a household against impersonation?*

The Department is not proposing a specific method for doing this. SNAP already requires that State agencies verify the identity of everyone who applies for SNAP. Identity is the only criterion that all SNAP households must verify, even under expedited service procedures and disaster programs. The Department thinks that ordinary verification of identity would be a sufficient safeguard in almost all circumstances; a State agency always has the authority to require additional

verification when identity remains questionable even after the household provides initial verification.

*Is the Department proposing similar changes for periodic reporting forms?*

Yes. There are three types of periodic reporting systems—monthly, quarterly, and simplified, each with specific reporting requirements and forms. Periodic reporting forms are functionally equivalent to applications in that they are clients’ signed statements of circumstances. Since non-written signatures suffice for applications, the Department believes that non-written signatures should also suffice for periodic reporting forms. However, as with applications, a State agency is not required to accept non-written signatures. (See proposed revisions at §§ 273.12(c)(4)(ii)(F), 273.12(d)(4)(ii)(F), and 273.21(h)(2)(vi)).

*Is the Department proposing similar changes for the reporting forms used by change reporters?*

No. There is no Federal requirement that a household assigned by the State agency to a change reporting system must sign the report form provided by the State agency. Therefore there is no need for Federal regulations that would accommodate non-written signatures for these forms.

*Would SNAP’s ordinary recordkeeping requirements, including timeframes, apply to these recordings?*

Yes. Although the Department is not proposing this specifically, if the Department adopts this proposal as a final rule the recordkeeping requirements for case records would automatically apply to these recordings. These requirements appear in SNAP’s regulations at § 272.1(f).

*How does the Department propose to implement this provision?*

We propose to amend various provisions in §§ 273.2(b), 273.2(c), 273.12(c) and (d), 273.14(b), and 273.21(h) to specify the conditions under which a household may attest to the accuracy of a SNAP application or a periodic report of changed information.

### 13. Employment and Training (E&T): Funding Cycle, Section 4122

*How long are unexpended employment and training funds available?*

Current rules at § 273.7(d)(1)(i) provide that each State agency will receive a 100 percent Federal grant each fiscal year to operate an E&T program. Regulations at § 273.7(d)(1)(i)(D) provide that if a State agency does not obligate or expend all of the funds allocated to it for a fiscal year, FNS will reallocate the unobligated, unexpended

funds to other State agencies each fiscal year or subsequent fiscal year. Prior to enactment of the FCEA, the Act provided these funds remain available until expended. However, Section 4122 of FCEA amended Section 16(h)(1)(A) of the Act (7 U.S.C. 2025(h)(1)(A)) to limit the time unspent unmatched Federal funding for E&T program expenses may remain available to 15 months. Unspent carryover funding will no longer remain available until expended.

The only reference in the regulations to the amount of time these funds will remain available can be found at § 273.7(d)(3)(ix); the regulations at § 273.7(d)(1) are silent on this matter. Therefore, the Department proposes to revise § 273.7(d)(3)(ix) to remove the reference that the funds allocated in accordance with paragraph § 273.7(d)(1) will remain available until obligated or expended. In accordance with current policy, if a State agency does not obligate or expend all of the funds allocated for a fiscal year, FNS will continue to reallocate the unobligated, unexpended funds to other State agencies as practicable within the legislatively mandated timeframe of 15 months. State agencies are encouraged to promptly advise FNS of all unobligated, unexpended funds. State agencies would continue to have 12 months to spend their annual Federal E&T grants.

#### 14. Other State Options Proposed by FNS: Telephone Interviews at Initial Certification and Recertification

*What is the current requirement concerning interviews at initial application and recertification?*

Current regulations at § 273.2(e)(1) mandate a face-to-face interview at initial application and at least every 12 months after that, except for certain households certified for more than 12 months. Under § 273.2(e)(2), the State agency may waive the face-to-face interview in lieu of a telephone interview if requested by the household based on a hardship such as disability, inadequate transportation, or an employment conflict. If the State agency waives the face-to-face interview based on household hardship, it must document the waiver in the household's case file. Under § 273.14(b)(3), State agencies must meet the same interview requirements for households at recertification including a face-to-face interview and may waive the face-to-face interview as provided in § 273.2(e).

*How is FNS proposing to change the face-to-face interview?*

FNS is proposing to amend §§ 273.2(e)(2) and 273.14(b)(3) to allow State agencies to use a telephone

interview rather than a face-to-face interview without documenting hardship. State agencies would be required to provide a face-to-face interview if requested by the household or if the State agency determines that one is necessary. However, if a household that meets the State agency's hardship criteria requests to waive the in-office interview, the State agency would be required to conduct the interview by telephone or to schedule a home visit. FNS clarified this policy in a June 25, 2009 memorandum, which can be found on the FNS Web site at: <http://www.fns.usda.gov/snap/rules/Memo/2009/062509.pdf>.

*Why is FNS proposing this change?*

To date, FNS has approved 39 waivers allowing State agencies to use telephone interviews in lieu of face-to-face interviews at initial application and/or recertification without requiring that the agency document hardship in the case file. These waivers have benefited both State agencies by providing increased flexibility and households by eliminating the need to travel to the local office for a face-to-face interview. FNS has collected information on the outcomes of these waivers; these data indicates that substituting telephone interviews for in-office face-to-face interviews has had no discernible impact on quality control error rates. Making this policy an option in the regulations rather than a waiver simplifies State administration and eliminates the need for States to submit requests for FNS approval.

#### 15. Other State Options Proposed by FNS: Averaging Student Work Hours

*What is the student work requirement?*

Under Section 6(e) of the Act (7 U.S.C. 2015(e)) and § 273.5(b), students enrolled at least half-time in an institution of higher education, are ineligible to participate in SNAP unless they meet at least one of several criteria. One criterion allows students to participate if they are employed for a minimum of 20 hours a week. In the absence of a methodology for calculating the 20-hour limit, FNS has interpreted this to mean that, as a condition of eligibility full-time college students must work a minimum of 20 hours every week.

*How is FNS proposing to change the work requirement?*

We propose to amend § 273.5(b)(5) to provide State agencies with the option to determine compliance with the 20-hour minimum work requirement by averaging the number of hours worked over the month using an 80-hour monthly minimum.

*Why is FNS proposing this change?*

FNS has approved waivers to 13 State agencies allowing them to average the number of hours worked over a month in determining compliance with the student work requirement of § 273.5(b)(5). These waivers provide State agencies with additional administrative flexibility and reduce the burden associated with determining compliance with an absolute minimum weekly standard. Averaging the numbers of hours worked also better reflects the nature of student employment, which frequently has a varied work schedule to accommodate academic demands. We also note that other SNAP work requirements, such as those for able-bodied adults without dependents (ABAWDs) mandated by § 273.24(a)(1), provide for the averaging of the number of hours worked to determine compliance with the requirement. Finally, SNAP eligibility is otherwise determined on a monthly rather than a weekly basis.

#### 16. Miscellaneous: Proposed Corrections To Remove Outdated Language

Finally, FNS proposes to remove an outdated provision and to make other minor corrections. The provision that we propose to remove, § 272.3(c)(5), contains a reference to an outdated reference in the Act and is no longer relevant. Additionally, we propose to remove references to the Job Training Partnership Act (JTPA) at §§ 273.9(b)(1)(iii), 273.9(b)(1)(v), and 273.9(c)(10) and to replace them with current references to the Workforce Investment Act of 1998 (WIA).

## II. Procedural Matters

### *Executive Orders 12866 and 13563*

We have examined the impacts of this proposed rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993) and Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011). Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated an "economically" significant rule, under section 3(f)(1) of Executive Order 12866. Accordingly,

the rule has been reviewed by the Office of Management and Budget. Consistent with the requirements of Executive Orders 12866 and 13563, a Regulatory Impact Analysis (RIA) was developed for this proposed rule. The conclusions of this analysis are summarized below.

**Statement of Need:** This proposed rulemaking is necessary to amend SNAP regulations to implement provisions of the FCEA that establish new eligibility and certification requirements for the receipt of SNAP benefits. These provisions are intended to increase SNAP benefit levels for certain participants, reduce barriers to participation, and promote efficiency in the administration of the program.

**Benefits:** There are many potential societal benefits of this proposed rule. Some provisions, such as excluding combat-related income and excluding certain types of savings from resources, may make some households newly eligible for SNAP benefits. Other provisions, such as increasing the minimum standard deduction and minimum benefit, may increase SNAP benefits for certain households. Provisions such as expanding simplified reporting and allowing States to accept telephonic signatures will reduce the administrative burden for households and make it easier for households to apply for SNAP. We estimate that all the provisions contained in this rule will

reduce household-level burden by over 20 million hours.

**Costs:** As noted above, the changes in the proposed rule result in a major reduction of paperwork burden for SNAP clients and State agencies. We estimated that this reduction in burden reflects an overall annualized cost savings of \$147.4 million.

**Transfers:** The Department has estimated the total SNAP costs to the Federal Government of the FCEA provisions implemented in the proposed rule at \$831 million in FY 2010 and \$5.619 billion over the 5 years FY 2010 through FY 2014. These impacts are already incorporated into the President's budget baseline.

### Regulatory Impact Analysis

0584-AD87

Supplemental Nutrition Assistance Program (SNAP): Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation and Energy Act of 2008

#### I. Statement of Need

This proposed rulemaking is necessary to amend SNAP regulations to implement provisions of the FCEA that establish new eligibility and certification requirements for the receipt of SNAP. The rule would amend the SNAP regulations to: Exclude military combat pay from the income of SNAP

households; raise the minimum standard deduction and the minimum benefit for small households; eliminate the cap on the deduction for dependent care expenses; index resource limits to inflation; exclude retirement and education accounts from countable resources; permit States to expand the use of simplified reporting; permit States to provide transitional benefits to households leaving State-funded cash assistance programs; allow States to establish telephonic signature systems; permit States to use E&T funds to provide post-employment job retention services; and limit the E&T funding cycle to 15 months. These provisions are intended to increase SNAP benefit levels for certain participants, reduce barriers to participation, and promote efficiency in the administration of the program.

#### II. Summary of Impacts

The Department has estimated the total SNAP costs to the Government of the FCEA provisions implemented in the proposed rule as \$831 million in fiscal year (FY) 2010 and \$5.619 billion over the 5 years FY 2010 through FY 2014. These impacts are already incorporated into the President's budget baseline. The Federal budget impacts are summarized below; these estimates are categorized as transfers in the accounting statement that follows.

TABLE 1—SUMMARY OF FEDERAL BUDGET IMPACTS

	FY2010	FY2011	FY2012	FY2013	FY2014	Total
Nomenclature Revisions—Section 4001 .....	*	*	*	*	*	*
Military Combat Pay Exclusion—Section 4101 .....	\$1	\$1	\$1	\$1	\$1	\$5
Increase the Standard Deduction Minimum to \$144 in FY 2009 and Index—Section 4102 .....	265	322	387	472	543	1,989
Eliminating the Dependent Care Deduction Cap—Section 4103 .....	153	161	156	147	139	756
Indexing the Asset Limit—Section 4104(a) .....	0	0	0	0	4	4
Excluding Retirement Savings—Section 4104(b) .....	191	301	289	270	254	1,305
Excluding Educational Savings—Section 4104(c) .....	2	4	4	3	3	16
Simplified Reporting Expansion—Section 4105 .....	114	179	171	160	151	775
Transitional Benefits Option—Section 4106 .....	7	11	11	11	10	50
Minimum Benefit Increase—Section 4107 .....	76	99	94	88	104	461
Employment and Training Funding for Job Retention—Section 4108 ....	*	*	*	*	*	*
Telephonic Signature Systems—Section 4119 .....	22	47	67	63	59	258
Employment and Training Cycle Reduction—Section 4122 .....	*	*	*	*	*	*
Option to Conduct Telephone Interviews at Certification and Recertification .....	*	*	*	*	*	*
Option to Average Student Work Hours .....	*	*	*	*	*	*

As required by OMB Circular A-4, in Table 2 below, we have prepared an

accounting statement showing the annualized estimates of benefits, costs

and transfers associated with the provisions of this proposed rule.

TABLE 2—ACCOUNTING STATEMENT

	Primary estimate	Year dollar	Discount rate	Period covered
<b>Benefits</b>				
Qualitative: Provisions will improve program delivery by simplifying program rules, reducing reporting burdens, and providing States with greater administrative flexibility and options on how they administer the program. In addition, the provisions reflect Congressional desire to increase program access, for example, by excluding certain savings accounts from countable resources.				
<b>Costs</b>				
Annualized Monetized (\$millions/year) .....	– 138 – 143	2010 2010	7% 3%	FY2010–2014
<b>Transfers</b>				
Annualized Monetized (\$millions/year) .....	\$1,111 \$1,118	2010 2010	7% 3%	FY2010–2014
From the Federal Government to Participating Households.				

In the discussion that follows, we provide a section by section description of the potential impacts.

#### Section by Section Analysis of Impacts

Many of the cost estimates rely on microsimulation models to estimate the impacts of potential changes to SNAP on the number and characteristics of eligible and participating persons and the effect on total benefit costs. A microsimulation model is composed of an underlying database and a computer program with a set of parameters and methods. The database is constructed from a nationally representative sample of households and the set of parameters and methods translate the rules of SNAP into a series of conditions that determine a household's eligibility and benefit level. By changing the parameters and methods, we can evaluate whether a change to SNAP rules will have a relatively small or large effect on households and overall SNAP benefit costs. FNS has two microsimulation models: one uses SNAP Quality Control (QC) data <sup>1</sup> to estimate impacts on current SNAP participants and the other model uses the U.S. Census Bureau's Survey of Income and Program Participation (SIPP) <sup>2</sup> to estimate impacts on both potentially eligible households and current SNAP participants.

#### Nomenclature Revisions—Section 4001

**Discussion:** Section 4001 of the FCEA changed the name of the program from the Food Stamp Program to the Supplemental Nutrition Assistance Program or SNAP. This change in name reflects the fact that participants no

longer receive stamps or coupons to make food purchases. Additionally, the new name reflects a focus on the nutritional aspect of the program. SNAP not only provides food assistance to low-income people, but also promotes nutrition to improve their health and well-being.

**Effect on Low-Income Families:** There could be some confusion among low-income families regarding the new program name. We expect that many people will continue to use the term Food Stamps and will adopt the new name of Supplemental Nutrition Assistance Program or SNAP over time.

**Federal Cost Impact:** We do not anticipate any additional cost to the Government from this name change. We are using the existing inventory of printed materials and will change the name and logos when we re-order materials.

**Participant Impacts:** We do not anticipate any significant change in participation resulting from the program name change.

#### Military Combat Pay Exclusion—Section 4101

**Discussion:** Current regulations define the permissible items that may be excluded from household income when determining SNAP eligibility. Section 4101 of FCEA amended section 5(d) of the Act to exclude special pay to United States Armed Services members that is received in addition to basic pay as a result of the member's deployment or service in a designated combat zone. The exclusion includes any special pay received pursuant to chapter 5 of title 37 of the USC and any other payment that is authorized by the Secretary. The special pay may include Combat, Imminent Danger, Hardship, Family Separation Allowance, Combat-related Injury and Rehabilitation Pay. To

qualify for the exclusion, the pay must be received as a result of deployment to or service in a combat zone and must have not been received prior to deployment.

**Effect on Low-Income Families:** This provision affects a subset of what is already a small population: very few military families receive SNAP, approximately 2,000 households. Department of Defense studies <sup>3</sup> and SNAP QC both indicate that a small percentage of SNAP recipients serve in the Armed Forces.

Moreover, military SNAP recipients will qualify for the special pay income exclusions only during those time(s) that their military service specifically places them in a combat zone. We estimate that only 20 percent of SNAP military households would receive any of the relevant special pays.

**Federal Cost Impact:** There is minimal cost to the program for FY 2010 through FY 2014. The anticipated cost for FY 2010 is \$1 million, which remains unchanged for each year through FY 2014, for a total 5 year cost of \$5 million. These impacts are already incorporated into the President's budget baseline.

To estimate the effect of this provision, we assume that approximately 15 percent of the 2,000 military households receiving SNAP would receive special combat or imminent danger pay. This percentage comes from a Department of Defense Manpower Data Center report <sup>4</sup> that

<sup>3</sup> *Food Stamp Usage in the Military*, Unpublished Department of Defense Report, Office of the Under Secretary of Defense Personal and Readiness, Directorate of Compensation, Military Personnel Policy, May 2003.

<sup>4</sup> *Active Duty Military Personnel Strengths by Regional Area and by Country Quarterly Report*, Defense Manpower Data Center, Department of Defense, September 30, 2010.

<sup>1</sup> SNAP Quality Control Data available online at: <http://hostm142.mathematica-mpr.com/fns/>.

<sup>2</sup> For more information see: <http://www.census.gov/sipp/>.

indicates that 15 percent of the total Active Force is currently deployed to the war zones in Iraq and Afghanistan. The standard amount for combat or imminent danger pay is \$225<sup>5</sup> which would affect the SNAP benefit as follows: the \$225 increase in monthly earned income would ordinarily decrease a military household's SNAP benefit by approximately \$70.20 (\$225 less 20 percent for earned income deduction times a 39 percent benefit reduction rate). This benefit reduction rate represents the average incremental change in benefits for each dollar change in the standard deduction (when we calculate the weighted average of the benefit reduction rate for households with and without the shelter deduction, we get an average benefit reduction rate of 39 percent).

The Family Separation Allowance is currently \$250 per month,<sup>6</sup> and based on the Department of Defense Manpower Data Center report, we estimate that approximately 20 percent of military SNAP households may receive this pay—either due to deployment in a war zone or deployment to another location where the service member is not permitted to bring a family. Excluding the Family Separation Allowance from countable income would increase the household SNAP benefit by \$78.

Hardship Duty Pay ranges between \$50 and \$150 per month.<sup>7</sup> We assume \$100 per month for estimating purposes and that the same 15 percent deployed to the war zones also receive Hardship Duty Pay. Excluding the Hardship Duty Pay from countable income would increase the household SNAP benefit by \$31.20. Finally, Combat Related Injury and Rehabilitation Pay ranges between \$430 and \$205 per month (depending on the receipt of Combat Pay, and only continues for approximately 3 months). Since the nature of a qualifying injury would be one that is serious enough to require rehabilitation, but not serious enough to separate the injured service member from the Armed Forces, we estimate that a very small percentage of military SNAP households (less than one percent) will receive this pay.

The total anticipated cost per year from excluding the various special pays as countable income is estimated at

approximately \$1 million. (The total number of households affected by a particular type of special pay is multiplied by the monthly amount of that pay, less the 20 percent earned income deduction and the 39 percent benefit reduction rate, multiplied by the number of months, 3 or 12, that the special pay is in effect).

**Participation Impacts:** No impact on current military SNAP participants is anticipated as a result of this provision, as the households that may be affected already receive SNAP. We do not anticipate that this provision will make any families newly eligible.

**Uncertainty:** Aside from anecdotal evidence that receives publicity from time to time; little research had been done to quantify the extent of SNAP participation in the Armed Forces. The Department of Defense has conducted its own studies during the late 1990s and as recently as 2003.<sup>8</sup> Those reports have typically found that very few (usually between 1000 and 2000) military households receive SNAP. FNS QC data also seem to corroborate the Department of Defense figures. Because these estimates are largely based on a non-USDA study and one of the employment status variables in the QC database, there is some uncertainty in their accuracy. The effect of this provision is also dependent on contingencies surrounding current military operations during this period. For example, the extent to which more or fewer military personnel will be required to deploy to combat zones in the future will affect the cost of this provision to the government. Finally, changes in military special pay and allowances may also alter the cost impact.

#### *Increase the Standard Deduction Minimum to \$144 in FY 2009 and Index—Section 4102*

**Discussion:** The standard deduction is one of the allowable deductions subtracted from a household's gross monthly income to help determine a SNAP household's net income and benefit amount, if eligible. Current regulations set the standard deduction at 8.31 percent of the applicable net income limit based on household size, but no less than the deduction in place in 2002 (\$134 for most households). Section 4102 of the FCEA, raised the minimum standard deduction for FY 2009 for the 48 States and the District of Columbia from \$134 to \$144. In

addition, it changed the minimum standard deduction amounts for Alaska, Hawaii, the U.S. Virgin Islands, and Guam to \$246, \$203, \$127, and \$289, respectively. Beginning FY 2010 and each fiscal year thereafter, the minimum standard deduction is indexed to inflation.

**Effect on Low-Income Families:** This provision will affect some low-income families not already receiving the maximum SNAP benefit by allowing them to claim a larger standard deduction and to obtain higher SNAP benefits. Smaller households with one, two or three members will be affected by the provision—larger households will not be affected because their standard deduction is already higher than the amount provided in this provision, and they will be allowed to claim the larger of the two.

**Federal Cost Impact:** The cost to the Government is estimated to be \$265 million in FY 2010 and \$1.99 billion over the 5 years from FY 2010 through FY 2014. This cost was estimated using a simulation model<sup>9</sup> and 2007 QC data. These impacts are already incorporated in the President's budget baseline. We estimate that this provision results in a slight increase in benefits for current participants living in one, two and three-person households.

To estimate the effect of this provision, we assumed a change in the standard deduction beginning in FY 2009, where the new minimum standard deduction is equal to \$144 and indexed to the Consumer Price Index (CPI) in FY 2010 and later. We then compared this revised standard deduction to the previous deduction. The previous deduction was the greater of \$134 or 8.31 percent of the monthly Federal poverty guideline values by household size, as calculated by the U.S. Department of Health and Human Services (HHS) and used for SNAP eligibility standards. The guidelines are published in January or February of each year and are the SNAP net income limits in the following fiscal year. The poverty guidelines used for setting the FY 2010 SNAP net income limits were published on January 23, 2009. The poverty threshold values used in FY 2011 and beyond were calculated by inflating the FY 2010 values by the Calendar Year CPI for All Urban Consumers as forecasted in the Office of Management and Budget's economic assumptions. For each household size and for each year, these values were multiplied by 8.31 percent.

<sup>5</sup> For more information see Defense Finance and Accounting Service at <http://www.dfas.mil/army2/specialpay/hostilefireimminentdangerpay.html>.

<sup>6</sup> For more information see Defense Finance and Accounting Service at <http://www.dfas.mil/militarypay/woundedwarriorpay/familyseparationallowancefsa.html>.

<sup>7</sup> For more information see Figure 17–1. Hardship Duty Location Pay for Designated Areas: [http://comptroller.defense.gov/fmr/07a/07a\\_17.pdf](http://comptroller.defense.gov/fmr/07a/07a_17.pdf).

<sup>8</sup> *Food Stamp Usage in the Military*, Unpublished Department of Defense Report, Office of the Under Secretary of Defense Personal and Readiness, Directorate of Compensation, Military Personnel Policy, May 2003.

<sup>9</sup> Model technical documentation available online: <http://hostm142.mathematica-mpr.com/fns/>.



The new standard deduction, therefore, is the higher of the new minimum standard deduction of \$144 in FY 2009 indexed to inflation, or 8.31 percent of the poverty level

corresponding to household size. For example, for a three person family in FY 2009, the standard deduction of \$144 is higher than \$121, which is 8.31 percent of the poverty level for a three person

household. This family would receive the higher standard deduction of \$144, which represents a \$10 increase from the previous minimum standard deduction of \$134.

**EXPECTED DOLLAR INCREASE IN THE SNAP STANDARD DEDUCTION BY HOUSEHOLD SIZE AND FISCAL YEARS 2009 THROUGH 2014**

Household size	2009	2010	2011	2012	2013	2014
1 person .....	10	7	9	11	13	16
2 persons .....	10	7	9	11	13	16
3 persons .....	10	7	9	11	13	16
4 persons .....	0	0	0	0	0	0
5 persons .....	0	0	0	0	0	0
6+ persons .....	0	0	0	0	0	0

To determine the total cost of this proposal, we estimated the number of households affected for each household size and in each year. The projections were adjusted based on data for the proportion of households of each size receiving less than the maximum allotment, tabulated from 2007 QC data, the most recent data available. The cost of this provision was then calculated for each household size in each year. The cost equaled the product of the change in the standard deduction for each household size, the number of households affected, 12 months, and a benefit reduction rate of 39 percent. This is then applied to the standard deduction. The individual costs for each household size were summed in each year and rounded to the nearest million dollars.

**Participant Impacts:** While we do not expect this provision to significantly increase SNAP participation, we estimate that setting the standard deduction equal to \$144 in FY 2009 and indexing to inflation will raise benefits among one, two and three-person households currently participating. In FY 2010 we estimate that approximately 13.7 million participants will receive higher benefits due to this provision, with an average increase in monthly benefits of \$1.61 per participant.

**Uncertainty:** Because these estimates are largely based on recent 2007 QC data, they have a moderate level of certainty. To the extent that the distribution of SNAP households by household size and income changes over time, the cost to the Government could be larger or smaller. To the extent that actual poverty guidelines are higher or lower than projected, the cost to the Government could be larger or smaller.

**Eliminating the Dependent Care Deduction Cap—Section 4103**

**Discussion:** A deduction for dependent care costs is available when

a SNAP household member must work, perform job seeking activities, attend required employment and training activities, or attend college or training in order to get a job. Under current regulations, there is a cap on the dependent care deduction of \$200 for children under age 2 and \$175 for older dependents. Section 4103 of the FCEA amended section 5(e)(3) of the Act by eliminating the cap on the deduction for dependent care expenses and allowing eligible households to deduct the full amount of their dependent care costs. In addition, dependent care expenses also include the costs of transporting dependents to and from the care facility and the costs of activity fees that are associated with dependent care.

**Effect on Low-Income Families:** The effect of this provision will be to increase the benefit of current SNAP participants who incur and claim dependent care costs in excess of the current cap, who do not already receive the maximum SNAP allotment. It will potentially make a small number of households with sizeable dependent care expenses, whose gross income is under the gross income threshold but whose net income currently exceeds the net income threshold, to become newly eligible.

**Federal Cost Impact:** The total cost to the Government of this provision is expected to be \$153 million in FY 2010. The 5-year total for FY 2010 through FY 2014 is \$756 million. These impacts are already incorporated into the President's FY 2010 budget baseline.

The cost to the Government of eliminating the dependent care cap is expected to be \$82 million in 2010 and \$408 million for the 5 years from FY 2010 through FY 2014. For this cost estimate, we used numbers produced by the Congressional Budget Office

(CBO),<sup>10</sup> adjusted by changes in SNAP caseloads and issuance.

The cost to the Government of allowing transportation costs to be included in the dependent care deduction is expected to be \$71 million in FY 2010. The 5-year total for FY 2010 through FY 2014 is \$348 million.

To estimate the impact of allowing transportation costs, we used a micro-simulation model based on the 2007 QC data. We have no data for transportation costs associated with dependent care costs, but we do know that some States allow Temporary Assistance for Needy Families (TANF) participants to claim up to \$60 per month. We simulated the impact of increasing the dependent care deduction by \$60 for all households using the deduction. However, eleven States (Alabama, Arizona, Georgia, Illinois, Kentucky, Massachusetts, Missouri, Montana, Texas, Wisconsin, and the District of Columbia) already include transportation costs as an allowable dependent care expense, so we excluded those States from our simulation. The simulation estimates that the increased deduction will increase costs by 0.24 percent, or \$143 million in FY 2010.

However, we had to make an adjustment because not all families with dependent care expenses incur any transportation costs. From the 2004 *Green Book*,<sup>11</sup> we know that 29 percent of families in poverty using some form of childcare have immediate family members provide childcare (such as staggered work schedules between parents, an unemployed father, or an older child), 19 percent use a relative or friend to care for the child in the child's home, 21 percent use a day care center, and 31 percent use a family day care home. We assume that those using

<sup>10</sup> Unpublished cost estimate provided by CBO.

<sup>11</sup> 2004 *Green Book*, Background Material and Data on Programs Within the Jurisdiction of the Committee on Ways and Means, March 2004.



immediate family members don't use the dependent care deduction. We assume that none of those with children cared for at home incur transportation costs, all of those using a day care center incur transportation costs, and half of those using family day care homes incur transportation costs. Since roughly half of those who incur dependent care expenses also incur transportation costs, we halved the cost to \$71 million in FY 2010.

We do not anticipate any significant cost impact from including activity fees in dependent care expenses.

**Participation Impact:** As a result of eliminating the dependent care cap, an estimated 479,000 people living in 145,000 households will receive larger benefits in FY 2010. We estimate that the average benefit increase per household will be \$47 per month. We have no data on any new participants, but the number is expected to be minimal. These estimates are based on numbers provided by the CBO,<sup>12</sup> adjusted by changes in SNAP caseloads.

As a result of allowing transportation costs to be included as deductible dependent care expenses, we estimate that 614,000 individuals will receive larger benefits in FY 2010. Using the micro-simulation model based on 2007 QC data, we estimated the impact of increasing the dependent care deduction by \$60, which is the amount that some States allow TANF households to claim. The model, which excludes the 11 States already allowing transportation costs to be counted, estimates that 3.51 percent of SNAP participants (1.2 million people) will receive larger benefits. However, because many households who claim the dependent care deduction do not incur transportation costs, we halve the estimate. We estimate that 614,000 people receive an average monthly benefit increase of nearly \$9.68 per person in FY 2010.

**Uncertainty:** There is a moderate level of uncertainty associated with the estimate for eliminating the dependent care cap. The cost and participation impacts came from CBO, which derived their estimate from QC data. However, although the QC data file has a variable showing the actual dependent care expense, in many cases, the coded expense is the same amount as the cap. Thus, the QC data file underestimates the number of households that would receive a larger benefit if the dependent care expense deduction cap was eliminated. To address this limitation, the CBO, in their scoring, imputed dependent care values to many

households with dependent care expenses. The accuracy of this estimate depends on the quality of their imputation.

There is a large degree of uncertainty associated with the estimate for including transportation costs and activity costs as allowable dependent care expenses. We have no data on the actual transportation or activity costs incurred by low-income families who have dependent care expenses, requiring us to make some broad assumptions.

#### *Indexing the Asset Limit—Section 4104(a)*

**Discussion:** Current regulations at § 273.8(b) limit SNAP households without disabled or elderly members to a maximum of \$2,000 in resources and SNAP households with disabled or elderly members to a maximum of \$3,000 in resources. This rule proposes to revise § 273.8(b) by indexing the current asset limits to inflation. The Department proposes to use the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Starting October 1, 2008, and each October 1 thereafter, the maximum allowable resources would be adjusted based on the previous year's rate of inflation. Each adjusted resource limit would be rounded down to the nearest \$250.

**Effect on Low-Income Families:** This provision will allow some households to become newly-eligible for the program. It will not affect those currently participating. It also will not affect those who apply and are found to be categorically eligible and, thus, not subject to the asset test.

Moreover, based on assumptions regarding increases in the cost of living indices, the provision will have no impact until FY 2014, when the asset limit for households with elderly and disabled members increases. The asset limit for all other households will increase in FY 2016.

**Federal Cost Impact:** There is no cost impact for FY 2010 through FY 2013. The estimated cost to the Government in FY 2014 is \$4 million for a total 5 year cost of \$4 million. These impacts are already incorporated into the President's budget baseline.

To estimate the effect of this provision, we used data from the U.S. Census Bureau's 2005 SIPP which includes information on household income and expenses. We simulated the impact of increasing the asset limit from \$3,000 to \$3,250 for households with elderly and disabled members in FY 2014. In our simulation, the cost of

benefits increases by 0.051 percent in FY 2014.

The first adjustment is to the participation rate of those made eligible by this provision. The simulation model overestimates the participation rate of those newly eligible. The model assumes that about half of those newly eligible will participate. However, studies on the impact of relaxing the asset limit show that only a quarter of new eligibles participate,<sup>13</sup> so we adjust the impact by halving it.

A second adjustment is to allow for a phase-in period. Studies on the impact of relaxing the asset limit show that it takes several years before all who ultimately come on the program are participating. For this estimate, we assume that the take-up period lasts three years. For FY 2014, we only assume a take-up rate of one-third. The cost estimate is \$5 million for FY 2014.

**Participation Impacts:** Among current SNAP participants, there is no impact. However, this provision could make some families newly eligible if their assets are above the current limit but under the new limit. Some of these newly eligible families may choose to participate in the program, potentially increasing program costs. In our simulation, the number of participants increases by 0.042 percent in FY 2014. We applied the same adjustments as in the cost impact for the participation rate and phase-in period. The estimated number of new participants is 2,000 in FY 2014.

**Uncertainty:** Because these estimates are largely based on a model that uses a large national database, they have a moderate level of certainty. The data are based on information collected in fall 2005 and, to the extent that asset holdings of low-income households have changed since then, the cost to the Government could be larger or smaller. Also, to the extent that actual changes in the cost of living are larger or smaller than forecasted in the President's 2010 Budget, the asset limit may be adjusted sooner or later than the cost estimate assumes. Finally, we lack recent data showing the actual participation rate of eligible people with assets, so there is some uncertainty with the participation rate adjustment.

#### *Excluding Retirement Savings—Section 4104(b)*

**Discussion:** Current regulations include the value of funds held in

<sup>13</sup> Wemmerus, Nancy and Bruce Gottlieb. *Relaxing the FSP Vehicle Asset Test: Findings from the North Carolina Demonstration*. Report submitted to the U.S. Department of Agriculture, Food and Nutrition Service. Alexandria, VA: Mathematica Policy Research, January 22, 1999.

<sup>12</sup> Unpublished cost estimate provided by CBO.

Individual Retirement Accounts (IRAs) and Keogh plans as countable resources (but 401K retirement accounts are currently excluded) and applies the value toward the \$2,000 asset limit (\$3,000 for households with at least one disabled or elderly member). This provision excludes such accounts as countable resources.

*Effect on Low-Income Families:* This provision will allow some households to become newly eligible for the program if excluding IRAs and Keogh plans as countable resources lowers their assets below the asset limit. It will not affect those currently participating. It also will not affect those who apply and are found to be categorically eligible and, thus, not subject to the asset test.

*Federal Cost Impact:* We estimate that the cost to the Government of this provision will be \$191 million in FY 2010 and \$1.305 billion over the 5 years from FY 2010 through FY 2014. These impacts are already incorporated into the President's budget baseline.

To estimate the cost impact of this provision, we used SIPP data which includes information on household income and expenses. We simulated the impact of excluding IRA and Keogh accounts. In our simulation, the program cost increases by 1.71 percent.

However, the simulation model overestimates the participation rate of those newly eligible. The model assumes that about half of those newly eligible will participate. However, those with retirement savings typically have work histories and short eligibility spells, so we assume that only a small fraction—one-sixth—will actually participate. Thus, we divide the cost impact by three.

A second adjustment is to allow for a phase-in period. Studies on the impact of relaxing the asset limit show that it takes several years before all who ultimately come on the program are participating. For this estimate, we assume that the take-up period lasts three years. We assume a take-up rate of one-third in 2009 (the first year that this provision took effect), two-thirds in 2010, and 100 percent in FY 2011 through FY 2014.

Finally, four States—Illinois, Minnesota, Ohio, and Pennsylvania—already exclude retirement savings. The model does not incorporate this exclusion, so we make an out-of-model adjustment. The four States accounted for 14.27 percent of benefits issued in FY 2008, so we reduced the cost by the same percentage.

Thus, the cost estimate is \$191 million for 2010. The cost estimate is \$1.305 billion for the 5 year period from FY 2010 to FY 2014.

*Participation Impacts:* Among current SNAP participants, there is no impact. However, this provision could make some families newly eligible if excluding IRA and Keogh savings accounts causes their countable assets to fall below the asset limit. Some of these newly eligible families may choose to participate in the program, potentially increasing program costs. In our simulation, the number of participants increases by 1.39 percent.

We applied the same adjustments as in the cost impact for the participation rate and phase-in period. Finally, we make an out-of-model adjustment for the four States—Illinois, Ohio, Pennsylvania, and Minnesota—that already exclude all retirement savings accounts. The four States accounted for 13.84 percent of participants in FY 2008, so we reduced the number of new participants by that percentage. Thus, the estimated number of new participants is 93,000 in 2010 and 148,000 in 2011, when the take-up rate reaches 100 percent.

*Uncertainty:* Because these estimates are largely based on a model that uses a large national database, they have a moderate level of certainty. The data are based on information collected in fall 2005 and, to the extent that asset holdings of low-income households have changed since then, the cost to the Government could be larger or smaller. Finally, we lack recent data showing the actual participation rate of eligible people with assets, so there is some uncertainty with the participation rate adjustment.

#### *Excluding Educational Savings—Section 4104(c)*

*Discussion:* Current regulations include the value of funds held in tax-preferred education savings accounts (such as 529 College Savings accounts or Coverdale accounts) as countable resources and applies the value toward the \$2,000 asset limit (\$3,000 for households with at least one disabled or elderly member). This provision excludes such accounts as countable resources.

*Effect on Low-Income Families:* This provision will allow some households to become newly eligible for the program if excluding educational savings accounts as countable resources lowers their assets below the asset limit. It will not affect those currently participating. It also will not affect those who apply and are found to be categorically eligible and thus not subject to the asset test.

*Federal Cost Impact:* We estimate that the cost to the Government of this provision will be \$2 million in FY 2010

and \$16 million over the 5 years from FY 2010 through FY 2014. These impacts are already incorporated into the President's budget baseline.

SIPP data does not include information on educational savings accounts, so we used the 2004 Survey of Consumer Finances (SCF)<sup>14</sup> to tabulate the number of low-income households (defined as below 200 percent of poverty) that had educational savings accounts and compared that figure to the number that had IRAs or Keogh accounts. According to the SCF, approximately 2 million low-income households had IRA or Keogh accounts, but only 28,000 (1.4 percent) had educational savings accounts. We estimated the cost impact of excluding educational savings accounts as being 1.4 percent of the impact of excluding IRA and Keogh accounts, or 0.024 percent (1.71 percent times 1.40 percent).

However, the simulation model overestimates the participation rate of newly-eligible. The model assumes that about half of those newly-eligible will participate. However, those with education savings typically have work histories and short eligibility spells, so we assume that only a small fraction—one-sixth—will actually participate.<sup>15</sup> Thus, we divide the cost impact by three.

A second adjustment is to allow for a phase-in period. Studies on the impact of relaxing the asset limit show that it takes several years before all who ultimately come on the program are participating. For this estimate, we assume that the take-up period lasts three years. We assume a take-up rate of one-third in 2009, two-thirds in 2010, and 100 percent in 2010–2014.

Finally, six States—Illinois, Massachusetts, Maryland, Michigan, Ohio, and Pennsylvania—already exclude retirement savings. The model does not incorporate this exclusion, so we make an out-of-model adjustment. The six States accounted for 21.57 percent of benefits issued in FY 2008, so we reduced the cost by that percentage.

Thus, the cost estimate is \$2 million for 2010. The cost estimate is \$16 million for the 5 year period from FY 2010 to FY 2014.

*Participation Impacts:* Among current SNAP participants, there is no impact. However, this provision could make some families newly eligible if

<sup>14</sup> For more information see: <http://www.federalreserve.gov/pubs/oss/oss2/scfindex.html>.

<sup>15</sup> There is no extant data to estimate how many households made newly-eligible by this provision would choose to participate. This assumption is based on the professional judgment of Federal SNAP administrators.

excluding educational savings causes their countable assets to fall below the asset limit. Some of these newly eligible families may choose to participate in the program, potentially increasing program costs.

SIPP data does not include information on educational savings account, so we used the SCF to tabulate the number of low-income households (defined as below 200 percent of poverty) that had educational savings accounts and compared that figure to the number that had IRAs or Keogh accounts. According to the SFC, approximately 2 million low-income households had IRA or Keogh accounts, but only 28,000 (1.4 percent) had educational savings accounts. We estimated the participant impact of excluding educational savings accounts as being 1.4 percent of the impact of excluding IRA and Keogh accounts, or 0.019 percent (1.39 percent times 1.40 percent).

We applied the same adjustments as in the cost impact for the participation rate and phase-in period. Finally, six States—Illinois, Massachusetts, Maryland, Michigan, Ohio, and Pennsylvania—already exclude retirement savings. The model does not incorporate this exclusion, so we make an out-of-model adjustment. The six States accounted for 21.31 percent of participants issued in FY 2008, so we reduced the number of new participants by that percentage.

Thus, the estimated number of new participants is 1,000 in 2010 (34,972,000 baseline participants times the 0.019 percent impact, times the 33.33 percent participation adjustment, times the 66.67 percent take-up rate adjustment, and times the 78.69 percent from excluding the six States).

*Uncertainty:* There is a moderate amount of uncertainty with these estimates. The estimates are derived from using the ratio of people with educational savings accounts to IRAs and Keogh accounts and applying it to the SIPP-based micro-simulation result. This assumes that excluding the educational accounts will have the same proportional impact, which is a reasonable, but untested hypothesis. Moreover, the SIPP data are based on information collected in fall 2005 and the SCF data is based on information collected in 2004. To the extent that asset holdings of low-income households have changed since the data were collected, the cost to the Government could be larger or smaller.

#### *Simplified Reporting Expansion—Section 4105*

*Discussion:* Simplified reporting is an option available to State agencies under SNAP regulations at § 273.12(a)(5) that requires minimal household reporting in comparison to the other types of household reporting systems that are available to State agencies under the SNAP regulations. Section 4105 of the FCEA removed a restriction that had discouraged State agencies from placing certain households (homeless, migrant and seasonal farm workers, and elderly or disabled adults with no earned income) on simplified reporting.

*Effect on Low-Income Families:* This provision will reduce the paperwork burden on low-income participants in the States that implement it by over 200,000 burden hours. It may result in more families continuing to receive benefits, given that they will be required to submit fewer reports in order to maintain eligibility.

*Federal Cost Impact:* The cost to the Government is estimated to be \$114 million in FY 2010 and \$775 million over the 5 years from FY 2010 through FY 2014. These impacts are already incorporated in the President's budget baseline.

The cost of this provision comes from the income changes that are no longer captured as quickly with simplified reporting which, in turn, may affect benefit levels. Our approach is to measure the difference between a perfect change reporting system, where all income changes are captured in a timely manner, to a system where no income changes are reported. Then we reduce this difference by the misreporting already occurring for elderly and disabled SNAP participants. The result is the reporting changes that are lost to simplified reporting.

To determine the cost to the government, we use a simulation model with SIPP data to estimate the benefit impact from perfect change reporting to ignoring all income changes. From this we subtract the small percentage of over and underpayments that occur from errors in reporting income (less than one percent). We then factor in the percentage of households that we estimate will continue to report changes more frequently than required (10 percent of households), and the percentage of States that we estimate are likely to act on those changes (50 percent of States). From this we determine a net cost, and adjust it by an assumed State take-up rate of 33 percent in 2009, 67 percent in 2010 and 100 percent in 2011 and beyond.

*Participant Impacts:* This provision affects participants in the States that opt to implement it. All households who are placed in a simplified reporting system benefit by reduced frequency of required reporting.

*Uncertainty:* There is uncertainty in the number of households that will continue to report changes with greater frequency than is required, the percentage of States that will take action based on information that is reported more frequently than is required, and the number of States that will implement this option. In general, increases in income occur more often for low-income households than do decreases in income. If delayed reporting results in higher income not being reported sooner, then we would anticipate the cost to the Government to be higher.

#### *Transitional Benefits Option—Section 4106*

*Discussion:* Prior to the FCEA, transitional benefits were available only to those leaving the TANF program. Section 4106 of the FCEA allowed States to provide transitional benefits to families leaving State-funded cash assistance programs. Programs that would not be eligible under this provision include programs that are funded by local level governments and programs that do not provide a cash benefit.

*Effect on Low-Income Families:* This provision provides low-income families leaving State-funded assistance programs with five additional months of SNAP benefits. As a result, these families have more money available for food, helping ease the transition out of State cash assistance programs.

*Federal Cost Impact:* The cost to the Government is estimated to be \$7 million in FY 2010 and \$50 million over the 5 years from FY 2010 through FY 2014. These impacts are already incorporated in the President's budget baseline.

To determine the cost to the Government, using SNAP QC data we first estimated the monthly cost of transitional benefits for households with children leaving TANF at approximately \$54. We used this per household cost as a proxy for the per household cost of families with children leaving State-funded assistance programs. We then multiplied the per household cost by 22,000 households estimated to leave State-funded assistance programs to determine the maximum total cost. Additionally, we applied phase-in assumptions to account for the phase-in of this provision among the States with State-funded benefits. We assume that

25 percent of States with State-funded benefits would implement this provision in 2009, increasing to a maximum of 75 percent of these States in 2011.

*Participant Impacts:* This provision will not increase the number of participants, but it will allow households with children receiving State-funded cash assistance to extend their SNAP benefits for a period of five months after they stop receiving cash assistance.

*Uncertainty:* The cost of this provision could vary depending on the number and timing of States that choose to implement it. It could also increase if more States adopted State-funded cash assistance programs, but this appears unlikely given the relatively

static number of States that have offered these benefits over time.

*Minimum Benefit Increase—Section 4107*

*Discussion:* Current regulations set the minimum benefit at \$10.00. Section 4107 of the FCEA mandated that, effective October 1, 2008 and each fiscal year thereafter, the minimum benefit amount for households of one and two persons is 8 percent of the maximum allotment for a household of one, rounded to the nearest whole dollar.

*Effect on Low-Income Families:* This provision will affect low-income participants receiving the minimum benefit by increasing their monthly benefit. An eligible household's SNAP benefit is computed by subtracting 30 percent of its net income from the maximum benefit. All one and two

person households are guaranteed to receive at least the minimum benefit (except during the initial month of participation).

*Federal Cost Impact:* The cost to the Government is \$76 million in FY 2010 and \$461 million over the 5 years from FY 2010 through FY 2014. These impacts are already incorporated in the President's budget baseline. Using the microsimulation model with 2007 QC data, we estimate that in FY 2010 this provision increases benefits for approximately 3.6 percent of participants, or 1.25 million people, who will receive an average monthly benefit increase of \$5.

The cost of this provision was estimated by comparing the previous minimum benefit of \$10 to 8 percent of the one-person maximum allotment.

EXPECTED DOLLAR INCREASE IN SNAP MINIMUM BENEFIT

[By fiscal years 2009 through 2014]

Household size	2009	2010	2011	2012	2013	2014
Minimum benefit under prior law .....	10	10	10	10	10	10
Minimum benefit under current law .....	14	15	15	15	16	16

The estimate cost of raising the minimum benefit was derived using a microsimulation model with FY 2007 QC data. The model indicated that the provision would increase total SNAP benefits by 0.13 percent in FY 2010, increasing to 0.20 percent of total benefits in FY 2014. We then applied this percentage to total baseline benefits to derive the total cost.

*Participant Impacts:* The model indicated that in 2010 approximately 3.6 percent of participants will receive higher benefits. We applied this percentage to the total number of participants and determined that approximately 1.25 million participants will receive a benefit increase due to this provision, with an average monthly benefit increase per affected participant of \$5 in FY 2010, rising to \$7 in FY 2014.

*Uncertainty:* There is a small degree of uncertainty associated with the estimate to raise the minimum benefit. The estimate is based on 2007 QC data and assumes that the proportion of participants receiving the minimum benefit will remain constant over time. If the proportion of participants receiving the minimum benefit were to increase or decrease, the cost of this provision would also increase or decrease accordingly.

*Employment and Training Funding for Job Retention—Section 4108*

*Discussion:* Section 6(d)(4) of the Act (7 U.S.C. 2015(d)(4)) specifies components that State agencies must include as part of E&T programs. Current regulations at § 273.7(e)(1) provide for seven approved uses of (Employment and Training) E&T funds. Section 4108 of the FCEA amended Section 6(d)(4) of the Act to add a new approved use of E&T funds. Job retention services for up to 90 days to an individual who secured employment after receiving other employment/training services under the E&T program offered by the State agency. It also clarifies that any individual voluntarily electing to participate in an E&T program is not subject to the hour of work limitation.

*Effect on Low-Income Families:* This provision could enable participants to more rapidly acquire the skills they need to become employed or increase their earnings, which could have a positive effect on family income.

*Federal Cost Impact:* We do not anticipate any significant cost impact to the Government from this provision, through either a change in benefits or State spending on E&T services.

*Participant Impacts:* We do not anticipate an effect on SNAP participation from this provision.

*Telephonic Signature Systems—Section 4119*

*Discussion:* Under current regulations there is no provision for accepting a spoken or gestured signature. This provision allows States to establish a system by which an applicant may sign an application through a recorded verbal agreement over the telephone.

*Effect on Low-Income Families:* This option would allow new low-income participants to begin receiving benefits an estimated three days sooner. We estimate that for the average newly participating household, this could provide approximately \$25 to \$30 in additional benefits at the start of their benefit receipt.

*Federal Cost Impact:* The cost to the Government is estimated to be \$22 million in FY 2010 and \$258 million over the 5 years from FY 2010 through FY 2014. These impacts are already incorporated in the President's budget baseline. We estimate that this provision will provide benefits 2–3 days sooner than if applicants mailed their applications.<sup>16</sup> The cost estimate is based on an additional 3 days of benefits for new applicant households.

To estimate this provision, we examined the baseline participant estimates for each fiscal year and derived the expected year to year

<sup>16</sup> This assumption is based on the professional judgment of Federal SNAP administrators.

growth in the number of participants. We then took the average monthly participant benefit and multiplied it by 2.23 to create the average household benefit. The 2007 QC data indicates that the average household benefit is 2.23 times the average monthly benefit per participant. We then divided the monthly household benefit by 30 (days) to determine the average value of one day of household benefits, and multiplied that by 3 (days) to come up with the average cost of three additional days of household benefits.

Furthermore, we did not assume that all States would take up this option immediately, or ever. We assume a phase-in for this provision, with States providing telephonic signatures to 2 percent of new participants in FY 2009, increasing to a maximum of 15 percent<sup>17</sup> of new participants in FY 2012 and beyond.

**Participant Impacts:** We do not anticipate any significant impact on the number of participants from this provision. However, it will provide benefits to participants sooner than if all applications were required to be mailed. The total number of new participants affected depends on the number of States choosing the option of telephonic signatures. At most, we estimate that 15 percent of new participants will sign their applications telephonically.

**Uncertainty:** The uncertainty in this provision relates to the number of States that will take up this option. We assume that at most, States will utilize this option for 15 percent of new participants. If more or fewer States were to choose this option, the number of participants receiving benefits sooner would either increase or decrease accordingly.

#### *Employment and Training Cycle Reduction—Section 4122*

**Discussion:** Current rules at § 273.7(d)(1)(i) provide that each State agency will receive a 100 percent Federal grant each fiscal year to operate an E&T program. Regulations at § 273.7(d)(1)(i)(D) provide that if a State agency does not obligate or expend all of the funds allocated to it for a fiscal year, FNS will reallocate the unobligated, unexpended funds to other State agencies each fiscal year or subsequent fiscal year. Prior to enactment of the FCEA, the Act provided these funds remain available until expended. However, Section 4122 of FCEA amended Section 16(h)(1)(A) of

the Act (7 U.S.C. 2025(h)(1)(A)) to limit the time unspent unmatched Federal funding for E&T program expenses may remain available to 15 months. Unspent carryover funding will no longer remain available until it's expended.

**Effect on Low-Income Families:** We do not anticipate any effect on low-income families from this provision.

**Federal Cost Impact:** We do not anticipate any significant cost impact for the Government from this provision.

**Participant Impacts:** We do not anticipate any impact on participation from this provision.

#### *Option To Conduct Telephone Interviews at Certification and Recertification*

**Discussion:** FNS is proposing to amend §§ 273.2(e)(2) and 273.14(b)(3) to allow State agencies to use a telephone interview rather than a face-to-face interview without documenting hardship. State agencies would be required to provide a face-to-face interview if requested by the household or if the State agency determines that one is necessary. However, if a household that meets the State agency's hardship criteria requests to waive the in-office interview, the State agency would be required to conduct the interview by telephone or to schedule a home visit.

**Effect on Low-Income Families:** We do not anticipate any effect on low-income families from this provision.

**Federal Cost Impact:** We do not anticipate any significant cost impact for the Government from this provision since many States are already employing this option. FNS has approved 39 waivers allowing State agencies to use telephone interviews in lieu of face-to-face interviews if requested by the household or if the State agency determines that one is necessary.

**Participant Impacts:** We do not anticipate any impact on participation from this provision.

#### *Option To Average Student Work Hours*

**Discussion:** Under Section 6(e) of the Act and § 273.5(b), students enrolled at least half-time in an institution of higher education, are ineligible to participate in SNAP unless they meet at least one of several criteria. One criterion allows students to participate if they are employed for a minimum of 20 hours a week. We propose to amend § 273.5(b)(5) to provide State agencies with the option to determine compliance with the 20-hour minimum work requirement by averaging the number of hours worked over the month using an 80-hour monthly minimum.

**Effect on Low-Income Families:** This provision may enable some low-income students to become eligible for SNAP if the student is able to meet the minimum work requirement under the proposed State option. The number of students who may become eligible for SNAP is likely very small so that the cost impact would be minimal.

**Federal Cost Impact:** We do not anticipate any significant cost impact for the Government from this provision, as some States are already employing this option. FNS has approved waivers to 13 State agencies allowing them to average the number of hours worked in determining compliance with the student work requirement.

**Participant Impacts:** We do not anticipate any impact on participation from this provision.

### **III. Alternatives Considered**

Most aspects of the proposed rule are non-discretionary and tie to explicit, specific requirements for SNAP in the FCEA. The mandatory effective date of most SNAP provisions in the FCEA was October 1, 2008. However, the Department did consider alternatives in implementing of Section 4103 of the FCEA, *Elimination of caps on dependent care deduction*.

Section 5(e)(3) of the Act specifies that the actual costs that are necessary for the care of a dependent may be deducted if the care enables a household member to accept or continue employment, or to participate in training or education in preparation for employment. Section 4103 of the FCEA eliminated the caps that had been placed on the amount of monthly dependent care costs that households could deduct; eligible households have been able to deduct the full amount of their dependent care costs since the October 1, 2008 effective date for this provision.

Only those expenses that are separately identified, necessary to participate in the care arrangement, and not already paid by another source on behalf of the household would be deductible. As part of the proposed rule, the Department is clarifying the types of *dependent care expenses permitted under the deduction*. It considered the following alternatives:

- *Include the costs of transporting dependents to and from care and separate activity fees charged by the care provider required for the care arrangement.* During the floor discussions prior to passage of the FCEA, it was recognized that some States already allow transportation costs to be deducted for dependent care, but no limit was placed in the law. This

<sup>17</sup> There is no extant data on how many States might choose this option. This assumption is based on the professional judgment of Federal SNAP administrators.

change would result in a nominal increase in program costs, but would ensure that national policy is consistent in ensuring that dependent care-related transportation costs do not compromise access to the program for clients.

- *Limit the deductions to direct compensation to the care provider. Historical policy applied the deduction more narrowly to direct compensation to the care provider. Like the option above, this would create a consistent national policy. It would nominally lower program costs, but would force some States to eliminate these deductions and may result in an increased administrative burden for States.*

After careful consideration, the Department chose the first alternative. The removal of the dependent care caps by the FCEA indicates an important shift by Congress in recognizing that associated costs represent a major expense for working households, and this alternative appropriately recognizes that dependent care involves many different types of costs, including transportation costs and fees charged for activities in structured dependent care programs.

#### IV. References

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- SNAP Quality Control Data available online at: <http://hostm142.mathematica-mpr.com/fns/>.
- Technical documentation for microsimulation models available online at: <http://hostm142.mathematica-mpr.com/fns/>.

- U.S. Census Bureau Survey of Income and Program Participation: <http://www.census.gov/sipp/>.
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- Defense Finance and Accounting Service Hostile Fire and Imminent Danger Pay: <http://www.dfas.mil/army2/specialpay/hostilefireimminentdangerpay.html>.
- Defense Finance and Accounting Service Family Separation Allowance: <http://www.dfas.mil/militarypay/woundedwarriorpay/familyseparationallowancefsa.html>.
- Hardship Duty Location Pay for Designated Areas, see Figure 17-1: [http://comptroller.defense.gov/fmr/07a/07a\\_17.pdf](http://comptroller.defense.gov/fmr/07a/07a_17.pdf).

#### Executive Order 13175

USDA will undertake, within 6 months after this rule becomes effective, a series of Tribal consultation sessions to gain input by elected Tribal officials or their designees concerning the impact of this rule on Tribal governments, communities and individuals. These sessions will establish a baseline of consultation for future actions, should any be necessary, regarding this rule. Reports from these sessions for consultation will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule and will provide additional venues, such as Webinars and teleconferences, to periodically host collaborative conversations with Tribal leaders and their representatives concerning ways to improve this rule in Indian country.

The policies contained in this rule would not have Tribal implications that preempt Tribal law.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on small entities. Pursuant to that review, it is certified that this proposed rule would not have a significant impact on small entities.

The provisions of this proposed rule, affecting the eligibility, benefits, certification, and employment and training requirements for applicant or participant households in the

Supplemental Nutrition Assistance Program (SNAP), are implemented through State agencies, which are not small entities as defined by the Regulatory Flexibility Act. In addition, the majority of this rule's provisions have been in implementation since the enactment of the Food, Conservation, and Energy Act of 2008 (FCEA). This rule proposes to amend the SNAP regulations to be consistent with the requirements of FCEA.

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under Section 202 of the UMRA, the Department generally must prepare a written statement, including a cost/benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or Tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or Tribal governments or to the private sector of \$100 million or more in any one year. This rule is, therefore, not subject to the requirements of Sections 202 and 205 of the UMRA.

#### Executive Order 12372

SNAP is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR 3015, subpart V and related Notice (48 FR 29115), the Program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

#### Federalism Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section

(6)(b)(2)(B) of the Executive Order 13132.

#### Prior Consultation With State Officials

After the FCEA was enacted on June 18, 2008, FNS held a series of conference calls with State agencies and FNS regional offices to explain the SNAP provisions included in the public law and to answer questions that State agencies had about implementing the changes to the program. On July 3, 2008, FNS issued an implementation memorandum that described each SNAP-related provision in the FCEA and provided basic information to assist State agencies in meeting statutorily-mandated implementation timeframes. FNS responded to additional questions that State agencies submitted and posted the answers on the FNS Web site. Another forum for consultation with State officials on implementation of the FCEA provisions included various conferences hosted by FNS regional offices, State agency professional organizations, and program advocacy organizations. During these conferences, held in the latter part of 2008 and early months of 2009, FNS officials responded to a range of questions posed by State agency officials related to implementation of FCEA provisions.

#### Nature of Concerns and the Need To Issue This Rule

This rule proposes to implement changes required by the FCEA. State agencies were generally interested in understanding the timeframes for implementing the various provisions and the implications of the statutory provisions on State agency administration workload and on applicants and participants. FNS was able to answer questions that directly related to the mandatory or optional nature of the provisions and to confirm the statutorily-mandated timeframes for implementation. FNS was also able to respond to questions that involved current regulations or written policy. An example of such an issue was whether uncapped dependent care claimed by an applicant or participant must be verified. FNS was able to answer this question by drawing on current policy at § 273.2(f), which requires that dependent care expenses, like other household costs, must only be verified if questionable or if the State agency opts to require verification of such costs. However, State agencies raised a number of questions that required policy development and could not be answered without promulgation of a new rulemaking. These types of questions raised by State agencies or

program advocacy organizations contributed directly to the development of policy proposed in this rule. For example, State agencies asked whether transportation costs associated with getting a dependent to and from care could be counted as part of dependent care expenses and thus be deducted. Specific SNAP policy on this issue had not been sufficiently developed prior to this rule; thus, we have proposed a clarification in this area.

#### Extent to Which We Met Those Concerns

FNS has considered the impact of the proposed rule on State and local agencies. This rule proposes to make changes that are required by law. All but two of the provisions in this rule would implement provisions of the FCEA, which were effective on October 1, 2008. The two additional provisions that we have proposed are discretionary in nature and would give State agencies regulatory options that currently may only be waived through SNAP's administrative waiver request procedures.

#### *Executive Order 12988*

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" paragraph of this rule. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Supplemental Nutrition Assistance Program, the administrative procedures are as follows: (1) For program benefit recipients—State administrative procedures issued pursuant to Section 11(e) of the Act (7 U.S.C. 2020(e)(1)) and regulations at § 273.15; (2) for State agencies—administrative procedures issued pursuant to Section 14 of the Act (7 U.S.C. 2023) and regulations at § 276.7 (for rules related to non-Quality Control liabilities) or part 283 (for rules related to Quality Control liabilities); (3) for Program retailers and wholesalers—administrative procedures issued pursuant to Section 14 of the Act (7 U.S.C. 2023) and 7 CFR 279.

#### *Civil Rights Impact Analysis*

FNS has reviewed this proposed rule in accordance with the Department Regulation 4300-4, "Civil Rights Impact Analysis," to identify and address any

major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, and of the characteristics of SNAP households and individual participants, we have determined that this rule would not have a disproportionate impact on any of these groups. We have no discretion in implementing many of these changes. The changes that are required to be implemented by law have already been implemented as of October 1, 2008. FNS expects that the discretionary provisions included in this proposed rule will benefit applicants and participants that are among the protected classes of individuals. All data available to FNS indicate that protected individuals have the same opportunity to participate in SNAP as non-protected individuals. FNS specifically prohibits the State and local government agencies that administer the Program from engaging in actions that discriminate based on race, color, national origin, sex, religion, age, disability, marital or family status (SNAP's nondiscrimination policy can be found at § 272.6(a)). Where State agencies have options, and they choose to implement a certain provision, they must implement it in such a way that it complies with the regulations at § 272.6.

#### *Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; *see* 5 CFR part 1320) requires that OMB approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This proposed rule contains new provisions that will affect reporting and recordkeeping burdens under currently approved collections and will be merged into OMB No. 0584-0064 and No. 0584-0083 once approved by OMB. The changes in burden that would result from the provisions in the proposed rule are described below, and are subject to review and approval by OMB. When the information collection requirements have been approved, FNS will publish a separate action in the **Federal Register** announcing OMB's approval.

Comments on the information collection in this proposed rule must be received by July 5, 2011. Send comments to the Office of Information and Regulatory Affairs, OMB, *Attention: Desk Officer for FNS*, Washington, DC 20503. Please also send a copy of your comments to Lizbeth Silbermann, Supplemental Nutrition Assistance Program, Food and Nutrition Service,



U.S. Department of Agriculture, 3101 Park Center Drive, Room 812, Alexandria, Virginia 22302. For further information, or for copies of the information collection requirements, please contact Ms. Silbermann at the address indicated above.

*Comments are invited on:* (1) Whether the proposed collection of information is necessary for the proper performance of the Agency's functions, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the proposed information collection burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information

on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this request for comments will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

*OMB Number: 0584—NEW*

*Title:* Supplemental Nutrition Assistance Program Forms—Applications, Periodic Reporting, and Notices.

*Type of Request:* New.

*Abstract:* This rule proposes to codify into SNAP regulations 12 provisions from FCEA and to make conforming changes throughout § 273, including the

change to the program's name. The rule also proposes two changes to the SNAP certification and eligibility regulations to provide State options that are currently available only through waivers. The FCEA provisions affect eligibility, benefits, and certification of program participants as well as the employment and training (E&T) portion of the program. This rulemaking proposes a new information collection to account for changes required by FCEA.

The average burden per response and the annual burden hours for this new information collection are explained and summarized in the following chart. A burden reduction of 20,397,156.60 hours will be merged with OMB No. 0584–0064 once approved by OMB.

Section of regulation	Title	Form number (if any)	Estimated number of respondents	Report filed annually	Total annual responses (Col. D×E)	Estimated avg. number of manhours per response	Estimated total manhours (Col. F×G)
A	B	C	D	E	F	G	H
<b>REPORTING</b>							
<b>STATE AGENCY LEVEL</b>							
Part 273 .....	Change of Program Name .....	.....	44	1.00	44.00	8.0000	352.00
273.9(c) .....	Exclusion of combat-related pay. ....	.....	.....	0.00	0.00	.....	0.00
273.9(d)(1)(iii) .....	Increase of minimum standard deduction. ....	.....	.....	0.00	0.00	.....	0.00
§§ 273.9(d)(4) & 273.10(e)(1)(i)(E). ....	Elimination of cap on dependent care expenses—SA Operation Manual update. ....	.....	53	1.00	53.00	8.0000	424.00
Do. ....	Newly certified households w/ dependent care. ....	.....	53	7,317.75	387,840.75	0.0835	32,384.70
Do. ....	Existing households w/dependent care. ....	.....	53	10,778.26	571,247.78	0.0334	19,079.68
273.10(e)(2)(ii)(C) .....	Minimum benefit increase .....	.....	53	1.00	53.00	0.5000	26.50
273.8(b) .....	Asset indexation .....	.....	53	16.98	900.00	0.0167	15.03
273.8(e)(2)(i) .....	Exclusion of retirement accounts from resources. ....	.....	.....	.....	.....	.....	.....
Do. ....	Newly certified households ....	.....	53	792.45	42,000.01	0.0167	701.40
Do. ....	New and Existing households ....	.....	53	138,528.30	7,342,000.01	0.0167	– 122,611.40
273.8(e) .....	Exclusion of education accounts from resources. ....	.....	.....	.....	.....	.....	.....
Do. ....	Newly certified households ....	.....	53	18.87	1,000.11	0.0167	16.70
Do. ....	New households (existing households not included, already captured in respondents under retirement accounts provision). ....	.....	53	8.59	455.01	0.0167	– 7.60
§§ 273.12(a)(5), (b), and (c) ....	Expansion of simplified reporting. ....	.....	.....	.....	.....	.....	.....
Do. ....	Newly added elderly or disabled households. ....	.....	47	53,000.00	2,491,000.00	0.1837	457,596.70
§ 272.2(d)(1)(H) and 273 Subpart H. ....	Transitional benefits alternative. ....	.....	.....	0.00	0.00	.....	0.00
§§ 273.2(b) & (c), 273.12(c) and (d), 273.14(b), and 273.21(h). ....	Telephonic signature .....	.....	3	1.00	3.00	120.0000	360.00
§§ 273.2(e)(2) & 273.14(b)(3) ..	Telephonic interviews .....	.....	40	1.00	40.00	2.0000	– 80.00
273.5(b)(5) .....	Averaging student work hours .....	.....	53	13,431.30	711,858.90	0.0835	– 59,440.22
§§ 273.7(e)(1)(viii) & 273.7(e)(4)(iii). ....	Employment and Training: Job retention services. ....	.....	.....	.....	.....	.....	0.00
State Agency Burden Total .....	.....	.....	53	223,897.50	11,548,495.56	.....	328,817.49
<b>HOUSEHOLD LEVEL</b>							
Part 273 .....	Change of Program Name .....	.....	.....	0.00	0.00	.....	0.00
273.9(c) .....	Exclusion of combat-related pay. ....	.....	.....	0.00	0.00	.....	0.00
273.9(d)(1)(iii) .....	Increase of minimum standard deduction. ....	.....	.....	0.00	0.00	.....	0.00



Section of regulation	Title	Form number (if any)	Estimated number of respondents	Report filed annually	Total annual responses (Col. D×E)	Estimated avg. number of manhours per response	Estimated total manhours (Col. F×G)
A	B	C	D	E	F	G	H
§§ 273.9(d)(4) & 273.10(e)(1)(i)(E).	Elimination of cap on dependent care expenses.	.....	.....	.....	.....	.....	.....
Do. ....	Newly certified households w/ dependent care.	.....	387,841	1.00	387,841.00	0.0835	32,384.72
Do. ....	Existing households w/dependent care.	.....	.....	1.00	571,248.00	0.0334	19,079.68
Do. ....	.....	.....	571,248	.....	.....	.....	.....
273.10(e)(2)(ii)(C) .....	Minimum benefit increase .....	.....	.....	0.00	0.00	.....	0.00
273.8(b) .....	Asset indexation .....	.....	.....	0.00	0.00	.....	0.00
273.8(e)(2)(i) .....	Exclusion of retirement accounts from resources.	.....	.....	.....	.....	.....	.....
Do. ....	New and existing households	.....	7,342,000	1.00	7,342,000.00	0.0167	– 122,611.40
273.8(e) .....	Exclusion of education accounts from resources.	.....	.....	.....	.....	.....	.....
Do. ....	New households (existing households not included, already captured in respondents under retirement accounts provision).	.....	455	1.00	455.00	0.0167	– 7.60
§§ 273.12(a)(5), (b), and (c) ....	Expansion of simplified reporting.	.....	2,491,000	1.00	2,491,000.00	0.0835	207,998.50
§ 272.2(d)(1)(H) and 273 Subpart H.	Transitional benefits alternative.	.....	.....	0.00	0.00	.....	0.00
§§ 273.2(b) & (c), 273.12(c) and (d), 273.14 (b) and 273.21(h).	Telephonic signature .....	.....	.....	0.00	0.00	.....	0.00
§§ 273.2(e)(2) & 273.14(b)(3) ..	Telephonic interviews .....	.....	10,431,409	1.00	10,431,409.00	2.0000	– 20,862,818.00
273.5(b)(5) .....	Averaging student work hours	.....	.....	0.00	0.00	.....	0.00
§§ 273.7(e)(1)(viii) & 273.7(e)(4)(iii).	Employment and Training: Job retention services.	.....	.....	.....	.....	.....	0.00
<b>Household burden total</b> .....	.....	.....	21,223,953	6.00	21,223,953.00	.....	– 20,725,974.09
Total Reporting burden of Eligibility, Certification and E&T Proposed Rule.	.....	.....	.....	.....	.....	.....	– 20,397,156.6
Total Existing Reporting Burden for OMB No. 0584–0064 .....	.....	.....	.....	.....	.....	.....	24,893,623
Total Reporting Burden for 0584–0064 with Eligibility, Certification and E&T Proposed Rule.	.....	.....	.....	.....	.....	.....	4,496,466
<b>RECORDKEEPING</b>							
<b>STATE AGENCY LEVEL</b>							
No recordkeeping burden incurred as a result of the proposed rule.	.....	0	0	0	0	0	0
<b>HOUSEHOLD LEVEL</b>							
No recordkeeping burden incurred as a result of the proposed rule.	.....	0	0	0	0	0	0

## Reporting

### 1. Renaming the Program—Part 273

As indicated earlier, Section 4001 of the FCEA renamed the Food Stamp Program the Supplemental Nutrition Assistance Program (SNAP). Under the proposed rule, the new program name and other nomenclature changes are updated throughout part 273 of the SNAP regulations. State agencies, however, are not required to change the local program name to the official Federal name under the FCEA and may continue to use state-specific names for SNAP. The Department has, however, encouraged States to discontinue the use of the name Food Stamp Program. If a State agency chooses to adopt the official Federal program name or change

from Food Stamps to an alternative name in response to FCEA, it will incur the initial burden costs of updating the State agency Web site and print materials such as operation manuals, program forms, and client information packets.

*State agency burden:* To date, 27 States have adopted the official program name. A total of 17 States are adopting or have adopted an alternate program name and 9 States are undecided and/or are still using the Food Stamp Program name. For the 44 State agencies that have adopted SNAP or an alternate name for the program, FNS estimates 352 burden hours (44 State agencies × 8 burden hours = 352 total burden hours).

*Household burden:* No household burden is estimated for this requirement.

### 2. Exclusion of Combat-Related Pay—§ 273.9(c)

Under the Act, State agencies would be required to exclude combat-related pay from consideration as income in determining SNAP eligibility and benefit amounts. State agencies would require verifiable documentation from households that differentiates regular income from combat-related pay. The process of excluding combat-related pay will create an upfront cost burden for the State, which includes updating operation manuals and staff with the changes of this provision. FNS proposes to add a new paragraph (20) to § 273.9(c)

describing the exclusion requirement of combat-related pay.

*State agency burden:* The Consolidated Appropriations Act, 2005, Public Law 108–447, allowed State agencies to exclude combat-related pay from consideration as income. Since States have incorporated this requirement in compliance with the Appropriations Act of 2005, which is now codified under the FCEA, FNS does not assume additional burdens to State agencies from this provision. In addition, FNS does not assume additional costs related to verification of combat-related pay since eligibility workers are already obtaining and verifying income on the household's military income.

*Household burden:* FNS does not estimate an additional burden to the household for this provision since households are already verifying income.

### 3. Increasing the Standard Deduction for Small Households—§ 273.9(d)(1)(iii)

FNS proposes to amend the regulation at § 273.9(d)(1)(iii) to include the changes in the standard deduction required by the Act. The FCEA required State agencies to implement the new minimum standard deduction approved by this rulemaking for FY 2009 for all 53 State agencies and to index the amounts annually beginning in FY 2010. The increased minimum standard deduction was incorporated as a means to increase the purchasing power of households. This provision would not impose an additional burden on State agencies or households since the standard deduction amounts are already modified and updated on an annual basis. State agencies can adjust the standard deduction to reflect the increased figure as part of the benefit calculation.

*State agency burden:* No burden estimated for State agencies.

*Household burden:* No burden estimated for households.

### 4. Elimination of Dependent Care Caps—§§ 273.9(d)(4) and 273.10(e)(1)(i)(E)

FNS proposes to amend §§ 273.9(d)(4) and 273.10(e)(1)(i)(E) to eliminate the caps on dependent care expenses. The FCEA stipulates that State agencies would no longer cap a household's deduction for dependent care. Working households with children are allowed to deduct the entire amount of child care expenses when determining benefits. Applying this requirement to existing SNAP households does pose an additional burden on State agencies because this requirement would be

applied on a case-by-case basis. The burden would result from additional administrative steps required to apply the new provisions.

*State agency burden:* FNS estimates a burden of 8 hours, totaling 424 burden hours (8 hours  $\times$  53 State agencies = 424 burden hours), for State agencies to develop procedures and modify manuals to incorporate the new dependent care requirements. As for applying these provisions toward new households, FNS estimates a State agency burden of 5 minutes or .0835 hours at the initial interview per household and 2 minutes or .0334 hours at recertification per household. According to the National Data Bank Survey (NDB), there are 8,618,690 newly certified households and 12,694,400 existing households in SNAP. Approximately 4.5 percent or 387,841 new households and 571,248 existing households receive dependent care (Characteristics of Food Stamp Households of 2007). Based on this information, FNS estimates a combined burden of 51,465 hours (387,841 newly certified households with dependent care  $\times$  .0835 hours = 32,385 burden hours; 571,248 existing households with dependent care  $\times$  .0334 hours = 19,080 burden hours) to implement the requirements under the new dependent care provision.

*Household burden:* Households may have to provide additional verification of costs greater than \$175 to \$200 and for additional types of expenses associated with dependent care (*i.e.* transportation and activity fees). FNS estimates that newly certified households will incur an additional burden of 5 minutes or .0835 hours (5 minutes or .0835 hours  $\times$  387,841 new households = 32,385 burden hours) to obtain additional verification information and a burden of 2 minutes or .0334 hours (2 minutes or .0334 hours  $\times$  571,248 recertified households = 19,080 burden hours) for existing households. The combination of newly certified and existing households results in 51,465 burden hours.

### 5. Increasing the Minimum Benefit for Small Households—§ 273.10(e)(2)(ii)(C)

FNS proposes to amend § 273.10(e)(2)(ii)(C) to include the FCEA increase in the minimum benefit amount for one and two-person households from \$10 to 8 percent of the maximum allotment. State agencies would have a minimum burden associated with implementing this change in the benefit amount, since it will now be adjusted annually rather than being a fixed amount.

*State agency burden:* FNS estimates a burden of 30 minutes per State agency, totaling 27 burden hours (30 minutes or .5 hr  $\times$  53 State agencies = 27 burden hours) for State agencies to incorporate this provision.

*Household burden:* No burden is estimated for households.

### 6. Indexing Asset Limits to Inflation—§ 273.8(b)

The FCEA authorized several changes to resource limits. The Act stipulated that the asset limit be indexed to inflation to the nearest \$250 increment. This change in the Act allows resource limits to keep pace with rising prices of goods and services. Initially, the changes proposed by the rule will lead to changes in the State agency's system and operational manual. This will be a minimal burden to State agencies. This rulemaking proposes to amend § 273.8(b) by indexing current asset limits to inflation.

*State agency burden:* FNS estimates an additional burden of 15 hours to State agencies for the implementation of this provision (900 initial certification applications  $\times$  1 minute or .0167 hours = 15 burden hours). This burden will not be incurred by State agencies until FY2013 when this provision will be fully implemented.

*Household burden:* No household burden estimated.

### 7. Exclusion of Retirement Accounts From Resources §§ 273.8(e)(2)(i) and Education Accounts 273.8(e)

Additionally, FNS is proposing that all funds in tax-preferred retirement accounts and education savings accounts be excluded from countable resources for the purposes of SNAP. State agencies would no longer need to consider retirement accounts and education savings accounts as resources. Because these resources will no longer be considered as part of the SNAP eligibility process, State agencies may see growth in the volume of applications which can lead to a small administrative burden. FNS proposes to revise SNAP regulations at §§ 273.8(e)(2)(i) and 273.8(e) to incorporate these changes.

According to FNS' Office of Research and Analysis, based on Quality Control data, 46 percent of all SNAP households are not categorically eligible and, therefore, are impacted by this provision. Categorically-eligible households are not subjected to the income and asset standard tests, and thus are not affected by the exclusion of retirement and educational savings accounts from the asset tests. Households that are not categorically-

eligible (7,342,000) are affected by this legislation and are able to have those two types of assets excluded. The number of people positively affected would be roughly the same for both groups, except that more people were made eligible by excluding retirement savings then by excluding educational savings. Therefore, existing households were not included in the education resources burden estimate since these households have been captured within the burden estimates for the exclusion of retirement accounts.

*State agency burden:* Under this provision, a State agency will no longer need to consider retirement accounts and education savings accounts as resources. This will reduce the State's resource verification burden. However, State agencies will need to consider the potential growth in SNAP applications and the potential administrative burden associated with it. FNS estimates a 1 minute burden or .0167 hours associated with additional administrative processes resulting from the exclusion of retirement account resources (\*42,000 newly certified households associated with retirement accounts  $\times$  .0167 hours = 701 burden hours), totaling 701 burden hours. FNS assumes a total of 122,611 (.0167 hours  $\times$  \*7,342,000 newly certified and existing households = 122,611 reduced burden hours) reduced burden hours associated with the FCEA retirement resources provision.

FNS estimates a 1 minute burden or .0167 hours associated with additional administrative processes resulting from the exclusion of education account resources (1,000 newly certified households with education accounts  $\times$  .0167 hours = 17 burden hours), totaling 17 burden hours. FNS assumes an 8 hour burden reduction (.0167 hours  $\times$  \*455 newly certified households = 8 burden hours) for newly certified households impacted by the exclusion of education resources.

*Household burden:* Households will no longer need to provide necessary supporting documents for the tax-preferred accounts. FNS estimates a 1 minute or .0167 burden hour reduction since households are no longer required to provide verification of retirement accounts, totaling 122,611 reduced burden hours (.0167 hours  $\times$  \*7,342,000 newly certified and existing households = 122,611 reduced burden hours). FNS estimates a 1 minute or .0167 burden hours reduction since households are no longer required to provide verification of education accounts, totaling a reduction of 8 hours (.0167 hours  $\times$  \*455 newly certified households = 8 burden

hours). \*Household estimates provided by the Office of Research and Analysis.

#### 8. Expanding Simplified Reporting—§§ 273.12(a)(5), (b), and (c)

The expansion of simplified reporting under the FCEA allows State agencies to place all households on simplified reporting. Elderly, disabled, homeless, migrant and seasonal farm workers are no longer prohibited from periodic reporting. This provision greatly reduces the reporting burden for households and State agencies. FNS proposes to revise §§ 273.12(a)(5), (b), and (c) to reflect that the frequency of periodic reporting for elderly and disabled households without earned income has been limited to one report every twelve months.

*State agency burden:* Based on information available to FNS, 47 States have expanded simplified reporting beyond earned income households. As indicated by the NDB Participation by State Program data, 12,694,400 existing households may be added to the expanded simplified reporting option. Of these, 2,491,000 are elderly and/or disabled households without earnings (FY2008 Quality Control Data; 8th Edition State Options Report). FNS estimates that with the implementation of this rulemaking, 2,491,000 elderly and/or disabled households may be added to the expanded simplified reporting option. FNS assumes that without simplified reporting these households would otherwise have been subject to change reporting or status reporting. By expanding simplified reporting to all households, elderly and/or disabled households without earnings that submitted 2 reports annually under change reporting can submit 1 annual report under simplified reporting. FNS estimates that a State agency spends 11 minutes or .1837 hours processing each report. Prior to the expansion of simplified reporting to the elderly and/or disabled households without earnings, the total State agency burden was 915,193 hours (2,491,000 elderly and/or disabled households  $\times$  2 reports under change reporting = 4,982,000 reports  $\times$  11 minutes or .1837 hrs = 915,193 burden hours). Under this rulemaking, the State burden is reduced from 915,193 to 457,597 burden hours (11 minutes or .1837 hours  $\times$  2,491,000 reports = 457,597 burden hours).

*Household burden:* The provision reduces household reporting burden because of the limited number of reports required under simplified reporting. FNS estimates that it takes a household 5 minutes or .0835 hours to complete a change report. By expanding simplified reporting to all households, elderly and/or

or disabled households without earnings can submit one report, thereby reducing the household burden from 415,997 hours to complete a change report (2,491,000 elderly and/or disabled households  $\times$  2 reports under change reporting = 4,982,000 reports  $\times$  5 minutes or .0835 hrs = 415,997 burden hours) to 207,999 burden hours under simplified reporting (2,491,000 elderly and/or disabled households  $\times$  1 report = 2,491,000 reports  $\times$  5 minutes or .0835 = 207,999 burden hours).

#### 9. Expanding Transitional Benefits—§ 272.2(d)(1)(H) and 273 Subpart H

FCEA provides State agencies the option to offer transitional benefits to households with children that cease to receive cash assistance from state-funded public assistance programs. To begin the process of transitional benefits, State agencies should provide the household with a notice of expiration (NOE) and a transition notice (TN). It is assumed that the burden for the TN would be minimal since the TN can sometimes replace the NOE. FNS proposes a revision of State plan requirements at § 272.2(d)(1)(H) and subpart H in part 273 of the SNAP regulations to reflect this option. In addition, this provision requires a revision to the State plan which is incorporated in the new information collection burden entitled, "Operating Guidelines, Forms, and Waivers."

*State agency burden:* Current regulations require that States that offer transitional benefits provide households leaving cash assistance programs with a TN. If no transitional benefit is offered, State agencies would provide households with a NOE prior to the end of the certification period or a Notice of Adverse Action. Since State agencies would automatically generate a notice, regardless of the type of notice, FNS does not estimate an additional burden for State agencies.

*Household burden:* Upon exiting a cash assistance program, the SNAP household's benefits are recalculated to account for the reduction in income. Therefore, no additional information is collected or required from the household. No additional burden to the household is estimated if transitional benefits are received or not.

#### 10. Telephonic Signatures—§§ 273.2(b) & (c), 273.12(c) & (d), 273.14(b), and 273.21(h)

The Act allows State agencies to establish a system by which an applicant may sign an application through recorded verbal assent over the telephone. FNS proposes several changes to incorporate this option:

- State clearly that a State agency may accept a spoken signature;
- Implement restrictions on spoken signatures;
- Apply restrictions to other signatures, written as well as unwritten; and

- Allow gestured or visual signatures as alternatives for those individuals that are unable to provide verbal assent.

Since the telephonic signature process would be a component of the application process, periodic reporting process, and recertification process, it is estimated that the State agency will incur an upfront cost burden of 120 hours to implement system changes and train staff on system usage. FNS proposes to revise §§ 273.2(b) & (c), 273.12(c) & (d), 273.14(b), and 273.21(h) to specify conditions under which a household may attest to the accuracy of a SNAP application or periodic report.

*State agency burden:* SNAP current policy allows State agencies to continue to explore and to adopt technologies as a way to improve their service to households and to simplify their management of SNAP. State agencies that may want to incorporate a system that supports the recording of telephonic signatures may need to phase such a system into place over a long period of time. Based on this, FNS assumes that in each fiscal year, over the next 3 years, three State agencies will work toward incorporating a system that supports the capabilities required under this provision. FNS estimates an upfront cost burden of 120 hours per State agency over the course of 3 years. This results in a total of 360 burden hours for three State agencies in the first 3 years.

*Household burden:* While this rulemaking should improve access for clients, the application process remains the same. Therefore, FNS does not assume a burden for households.

*FNS Proposed State Options:* This rule also proposes two changes to the program certification and eligibility regulations to offer State options that are currently available only through waivers—telephone interviews at certification and recertification, and averaging student work hours. The reporting burdens for these proposed options are discussed below.

#### 11. Telephone Interviews— §§ 273.2(e)(2) and 273.14(b)(3)

FNS proposes to amend §§ 273.2(e)(2) and 273.14(b)(3) to allow states to use a telephone interview rather than a face-to-face interview without documenting hardship. State agencies would be required to conduct a face-to-face interview if requested by the household

or if the State agency determines one is necessary. Currently, 40 states are conducting telephone interviews under a face-to-face waiver. Per this provision, State agencies will no longer be required to collect data on information based on the type of interview that households received, nor will they be required to document household hardship. The result is a reduction in state burden hours due to simplification of the certification and recertification process.

*State agency burden:* Since a large number of States have incorporated telephone interviews through the waiver process, FNS assumes that the implementation of this provision will result in a reduction in administrative burden to State agencies due to no longer requiring the approval of waivers for telephonic interviews. FNS estimates a 2 hour reduction in burden hours for State agencies, totaling 80 reduced burden hours (2 hours × 40 States with active face-to-face waivers = 80 reduced burden hours).

*Household burden:* This proposed provision permits households to fulfill the interview requirement without the need to visit the local SNAP office, reducing transportation costs and potential loss of wages for households. Assuming that 80% of households within States that have approved face-to-face waivers are having telephone interviews, FNS estimates a 2 hour reduction in household burden, totaling 20,862,818 reduced burden hours (13,039,262 households under approved waiver × 80% = 10,431,409 households × 2 hours = 20,862,818 reduced burden hours).

#### 12. Averaging Student Work Hours— § 273.5(b)(5)

FNS also proposes to amend § 273.5(b)(5) to give States the option to determine compliance of the 20-hour minimum work requirement by averaging the number of student hours worked over a month using a 80-hour monthly minimum. Modification of the existing regulation grants States the additional administrative flexibility and reduced burden associated with determining compliance with minimum weekly work standards.

*State agency burden:* Based on limited waiver data, FNS estimates that 3.34 percent of a State agency's caseload is composed eligible student households. Based on this assumption, the modification of § 273.5(b)(5) would decrease the State agency burden hours by 5 minutes or .0835 hours, totaling 59,440 reduced burden hours annually (21,313,090 newly certified and existing households × 3.34% = 711,857 eligible

student households × .0835 hours = 59,440 reduced burden hours).

*Household burden:* Student households must continue to provide documentation to support the number of hours worked. Therefore, no additional burden is estimated under this provision for the household.

#### 13. E&T Job Retention Services— §§ 273.7(e)(1)(viii) & 273.7(e)(4)(iii)

FCEA amended section 6(d)(4) of the Act to incorporate a new employment and training component. The provision permits the use of education and training funds for post-employment job retention services for up to 90 days. It clarifies that any individual voluntarily electing to participate in an E&T program is not subject to the 120 hour work limit. FNS proposes to amend §§ 273.7(e)(1) (viii) and 273.7(e)(4)(iii) of the SNAP regulations to define job retention as services provided to individuals who have secured employment to help achieve satisfactory performance, keep the job and increase earnings over time.

*State agency burden:* No burden is estimated under this provision for State agencies.

*Household burden:* No burden is estimated under this provision for households.

#### Recordkeeping

*Maintaining case records:* Section 4119 of the FCEA amended Section 11(e)(2)(C) of the Act (7 U.S.C. 2020(e)(2)(C)) to allow State agencies to establish a system by which an applicant may sign an application through recorded verbal assent over the telephone. The system must record the verbal assent, include effective safeguards against impersonation, identity theft and invasions of privacy, not interfere with the right to apply in writing, provide the household a written copy of the application with instructions for correcting any errors, and make the date of application the date of the verbal assent. State agencies are to implement changes to their telephone system for the efficient collection, storage, and protection of large amounts of data to meet the requirements under Section 11(a) of the Act (7 U.S.C. 2020(a)) and § 271.4(a)(6) of the SNAP regulations concerning record maintenance.

State agencies that incorporate a system that records verbal assent would be required to keep record of the information gathered and submitted to FNS. We do not foresee an additional record keeping burden resulting from the maintenance of recorded verbal data since the information that is recorded is

the same as the information collected with paper applications. Therefore, the recordkeeping burden remains unchanged under this information collection.

OMB Number: 0584—NEW

Title: Operating Guidelines, Forms, and Waivers.

Forms: Not Applicable.

Type of Request: New.

Abstract: The regulations at § 272.2 require that State agencies plan and budget program operations and establish objectives for each year. State agencies are required to submit program activity statements and State plan of operation updates to FNS Regional Offices for review and approval. The FCEA provided that the employment and

training provision and optional provisions, included in this proposed rule, may be implemented by State agencies on October 1, 2008.

The average burden per response and the annual burden hours for this new information collection are explained and summarized below. A total of 34 burden hours will be merged with OMB No. 0584–0083 once approved by OMB.

Section of regulation	Title	Form number (if any)	Estimated number of respondents	Report filed annually	Total annual responses (Col. Dx E)	Estimated avg. no. of man-hours per response	Estimated total man-hours (Col. Fx G)
A	B	C	D	E	F	G	H

#### REPORTING

##### STATE AGENCY LEVEL

§ 273.7(d)(3)(ix) .....	Shortening the E&T funding cycle. ....	.....	.....	.....	.....	.....	0.000
§ 272.2(d) .....	Simplified Reporting .....	.....	47	1	47	.25	11.75
	Transitional Benefits .....	.....	19	1	19	.25	4.75
	E&T for Job Retention ...	.....	12	1	12	.25	3
	Telephonic Signature .....	.....	3	1	3	.25	.75
	Telephonic Interviews .....	.....	40	1	40	.25	10
	Averaging of Student work hrs .....	.....	15	1	15	.25	3.75
State Agency Level Totals .....	.....	.....	47	6	136	.....	34

#### RECORDKEEPING

##### STATE AGENCY LEVEL

No recordkeeping burden incurred as a result of the proposed rule. ....	.....	.....	.....	.....	.....	.....	.....
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#### Reporting

##### 1. Shortening the E&T Funding Cycle—§ 273.7(d)(3)(ix)

Section 4122 of the FCEA, which amended section 16(h)(1)(A) of Act (7 U.S.C. 2025(h)(1)(A)), limits the timeframe States can keep unspent unmatched Federal funding for E&T purposes and limited the timeframe of availability of unspent unobligated funds to 15 months. FNS proposes to reallocate the unexpended funds to other state agencies as practicable. State agencies are required to provide FNS with a report of changes to the E&T plan as they occur. FNS proposes to revise § 273.7(d)(3)(ix) of the regulations to incorporate this change.

State agency burden: FNS does not estimate a burden to State agencies.

##### 2. Describing State Options in State Plan of Operation—§ 272.2(d)

Additionally, FNS proposes to amend § 272.2(d) of the SNAP regulations in order for State agencies that opt to implement certain provisions of the FCEA, to include such options in the State Plan of Operation.

The optional provisions are: Simplified reporting; transitional benefits; employment and training

funding of job retention services; telephonic signature systems; telephonic interviews at certification and recertification; and averaging student work hours. The regulations at § 272.2(f) require that State agencies provide FNS with changes to these plans as they occur. Since these options are newly provided by FCEA, State agencies that choose these options must include them in their State Plans of Operation the year the options are implemented. Additionally, if there are changes to the options in subsequent years, State agencies must update their State Plans of Operation to reflect the changes.

Estimates of burden: 47 States have expanded simplified reporting; 19 States have adopted transitional benefits; 12 States have opted to use employment and training funding for job retention services; 3 States are expected to adopt the telephonic signature systems in the next year; 40 States have approved waivers for telephonic interviews; 15 States have adopted averaging student work hours.

FNS estimates an average burden of 15 minutes or .25 hours per State agency per option selected, totaling 34 burden hours (47 simplified reporting States × .25 hours = 11.75; 19 transitional benefit

States × .25 = 4.75; 12 States have incorporated E & T training funding for job retention services × .25 hours = 3; 3 telephonic signature States per year × .25 = .75; 40 telephonic interview States × .25 = 10; 15 States that average student work hours × .25 = 3.75) for the year.

#### Recordkeeping

No recordkeeping burden was incurred under this proposed rule.

#### E-Government Act Compliance

FNS is committed to complying with the E-Government Act, 2002 to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### List of Subjects

##### 7 CFR Part 271

Food stamps, Grant programs-social programs. Reporting and recordkeeping requirements.

##### 7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs-social programs, Penalties, Reporting and recordkeeping requirements, Unemployment compensation, Wages.

### 7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Employment, Food stamps, Fraud, Government employees, Grant programs-social programs, Income taxes, Reporting and recordkeeping requirements, Students, Supplemental Security Income, Wages.

Accordingly, 7 CFR parts 271, 272 and 273 are proposed to be amended as follows:

1. The authority citation for parts 271, 272 and 273 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036.

### PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2, revise the definition of *Minimum benefit* to read as follows:

#### § 271.2 Definitions.

\* \* \* \* \*

*Minimum benefit* means the minimum monthly amount of SNAP benefits that one- and two-person households receive. The amount of the minimum benefit shall be determined according to the provisions of § 273.10 of this chapter.

\* \* \* \* \*

### PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

3. In § 272.2, revise paragraphs (d)(1)(xvi)(A) through (H) to read as follows:

#### § 272.2 Plan of operation.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(xvi) \* \* \*

(A) Section 273.2(c)(7)(viii) of this chapter, it must include in the Plan's attachment the option to accept spoken signatures on the application and reapplication forms;

(B) Sections 273.2(e)(2) and 273.14(b)(3) of this chapter, it must include in the Plan's attachment the option to provide telephone interviews in lieu of face-to-face interviews at initial application and reapplication;

(C) Sections 273.2(f)(1)(xii), 273.2(f)(8)(i)(A), 273.9(d)(5), and 273.9(d)(6)(i) of this chapter, it must include in the Plan's attachment the options it has selected;

(D) Section 273.5(b)(5) of this chapter, it must include in the Plan's attachment the option to average student work hours;

(E) Section 273.9(c)(3) of this chapter, it must include in the Plan's attachment a statement that the option has been selected and a description of the types

of educational assistance being excluded under the provision;

(F) Sections 273.9(c)(18) and 273.9(c)(19) of this chapter, it must include in the Plan's attachment a statement of the options selected and a description of the types of payments or the types of income being excluded under the provisions;

(G) Sections 273.12(b), 273.12(c), and 273.12(d) of this chapter, it must include in the Plan's attachment a statement of the household reporting system or systems has/have been selected and a description of any options available under each reporting system it has selected and the types of households assigned to each reporting system used by the State agency; and

(H) Section 273.26 of this chapter, it must include in the Plan's attachment a statement that transitional SNAP benefits are available and a description of the eligible programs by which households may qualify for transitional benefits; if one of the eligible programs includes a State-funded cash assistance program, whether household participation in that program runs concurrently or sequentially to TANF; the categories of households eligible for such benefits; the maximum number of months for which transitional benefits will be provided; and any other items required to be included under subpart H of part 273 of this chapter.

\* \* \* \* \*

#### § 272.3 [Amended]

4. In § 272.3, remove paragraph (c)(5) and redesignate paragraphs (c)(6) and (c)(7) as paragraphs (c)(5) and (c)(6), respectively.

### PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

5. Part 273 of this chapter is proposed to be amended as follows:

a. Remove the words "the Food Stamp Program" and add in their place, the word "SNAP" each time they appear in this part;

b. Remove the words "Food Stamp Program" and add in their place, the word "SNAP" each time they appear in this part;

c. Remove the words "Food Stamp Act" and "Food Stamp Act of 1977" and add in their place, the words "Food and Nutrition Act of 2008" each time they appear in this part;

d. Remove the words "food stamp" and add in their place, the word "SNAP" each time it appears in this part; and

e. Remove the words "food stamps" wherever they appear and add in their place, the words "SNAP benefits".

6. In § 273.2:

- a. Add new paragraph (b)(1)(x);
- b. Revise paragraphs (c)(1) and (c)(3);
- c. Add new paragraph (c)(7);
- d. Revise paragraph (e)(2);
- e. Revise the first and last sentences of paragraph (i)(3)(i);
- f. Revise paragraph (i)(3)(ii);
- g. Revise the last sentence of paragraph (k)(1)(i)(O);
- h. Amend the first sentence of paragraph (n)(4)(i)(C) by removing the word "coupons" and replacing it with the word "benefits"; and
- i. Amend paragraph (n)(4)(iii) by removing the words "authorization documents or coupons" and replacing them with the words "EBT accounts".

The additions and revisions read as follows:

#### § 273.2 Office operations and application processing.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(x) A State agency may consider an application form to be an on-line document, a recorded spoken conversation, or a recorded signed conversation. If a State agency uses a non-paper application form, the State agency shall provide the household with a paper copy of the form that complies with paragraphs (b)(1)(i) through (b)(1)(ix) of this section.

\* \* \* \* \*

(c) \* \* \*

(1) *Household's right to file.* (i) *Where to file.* Households must file SNAP applications by submitting the forms to the SNAP office either in person, through an authorized representative, by fax or other electronic transmission, by mail, or by completing an on-line electronic application.

(ii) *Right to file in writing.* All households have the right to apply or to re-apply for SNAP in writing. The State agency shall neither deny nor interfere with a household's right to apply or to re-apply in writing.

(iii) *Right to same-day filing.* Each household has the right to file an application form on the same day it contacts the SNAP office during office hours. The household shall be advised that it does not have to be interviewed before filing the application and may file an incomplete application form as long as the form contains the applicant's name and address, and is signed by a responsible member of the household or the household's authorized representative. Regardless of the type of system the State agency uses (paper or electronic), the State agency must provide a means for applicants to immediately begin the application process with name, address and signature.

(iv) *Recording the filing date.* State agencies shall document the date the application was filed by recording on the application the date it was received by the SNAP office. When a resident of an institution is jointly applying for SSI and SNAP benefits prior to leaving the institution, the filing date of the application to be recorded by the State agency on the SNAP application is the date of release of the applicant from the institution.

(v) *Non-paper applications.* These provisions apply when a household completes any application, other than a paper application.

(A) *Opportunity to review information.* The State agency shall give the household at least 10 days to review the information that has been recorded electronically and must provide it with a copy of that information for its records.

(B) *A copy.* The State agency shall give the household a copy of the submitted or recorded information for their records.

(vi) *Date of application.* State agencies must document the date the application was filed by recording the date of receipt at the SNAP office.

(vii) *Residents of institutions.* The following special provisions apply to residents of institutions.

(A) *Filing date.* When a resident of an institution is jointly applying for SSI and SNAP benefits prior to leaving the institution, the filing date of the application that the State agency must record is the date of release of the applicant from the institution.

(B) *Processing deadline.* The length of time a State agency has to deliver benefits is calculated from the date the application is filed in the SNAP office designated by the State agency to accept the household's application, except when a resident of a public institution is jointly applying for SSI and SNAP benefits prior to his/her release from an institution in accordance with § 273.1(e)(2).

(C) *Certification procedures.* Residents of public institutions who apply for SNAP prior to their release from the institution shall be certified in accordance with § 273.2(g)(1) or § 273.2(i)(3)(i), as appropriate.

(3) *Availability of the application form.* (i) *General availability.* The State agency shall make application forms readily accessible to potentially eligible households. The State agency shall also provide an application form to anyone who requests the form. Regardless of the type of system the State agency uses (paper or electronic), the State agency

must provide a means for applicants to immediately begin the application process with name, address and signature. If the State agency maintains a Web page, it must make the application available on the Web page in each language in which the State agency makes a printed application available. The State agency must provide on the Web page the addresses and phone numbers of all State SNAP offices and a statement that the household should return the application form to its nearest local office. The applications must be accessible to persons with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973, Public Law 93–112, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93–516, 29 U.S.C. 794.

(ii) *Paper forms.* The State agency must make paper application forms readily accessible and available even if the State agency also accepts application forms electronically or through other media.

\* \* \* \* \*

(7) *Signing an application or reapplication form.* In this paragraph, the word “form” refers to applications and reapplications.

(i) *Requirement for a signature.* An application must be signed to establish a filing date and to determine the State agency's deadline for acting on the application. The State agency shall not certify a household without a signed form.

(ii) *Right to provide written signature.* All households have the right to sign a SNAP form in writing.

(iii) *Unwritten signatures.* The State agency shall decide whether unwritten signatures are acceptable. The State agency is not required to accept unwritten signatures.

(A) These may include electronic signature techniques, handwritten signatures that the household transmits by fax or other electronic transmission, recorded spoken signatures, or recorded gestured signatures.

(B) A State agency is not required to obtain a written signature in addition to an unwritten signature.

(iv) *Who may sign the form.* (A) An adult member of the household. The State agency decides who is an adult.

(B) An authorized representative, as described in § 273.2(n)(1).

(v) *Criteria for all signatures.* All systems for signatures must meet all of the following criteria:

(A) Record for future reference the assent of the household member and the information to which assent was given;

(B) Include effective safeguards against impersonation, identity theft, and invasions of privacy;

(C) Not deny or interfere with the right of the household to apply in writing;

(D) Promptly provide to the household member a written copy of the completed application, with instructions for a simple procedure for correcting any errors or omissions (except that this requirement does not apply to an application that a household signs by hand);

(E) Comply with the SNAP regulations regarding bilingual requirements at § 272.4(b) of this chapter; and

(F) Satisfy all requirements for a signature on an application under the Act and other laws applicable to SNAP, with the date on which the household member provides verbal assent considered as the date of application for all purposes.

(vi) *Handwritten signatures.* These provisions apply specifically to handwritten signatures.

(A) If the signatory cannot sign with a name, an X is a valid signature.

(B) The State agency may require a witness to attest to an X.

(C) An employee of the State agency may serve as a witness.

(vii) *Electronic signatures.* These provisions apply specifically to electronic signatures.

(A) The State agency may accept an electronic signature but is not required to do so.

(B) Some examples of electronic signature are the use of a Personal Identification Number (PIN), a computer password, clicking on an “I accept these conditions” button on a computer screen, and clicking on a “Submit” button on a computer screen.

(C) The State agency shall promptly provide to the household member a written copy of the completed application, with instructions for a simple procedure for correcting any errors or omissions.

(D) The State agency's procedure shall allow the household at least 10 calendar days to return corrections; and

(E) The State agency shall regard the date of the signature as the date of application for all purposes.

(viii) *Spoken signatures.* These provisions apply specifically to spoken signatures.

(A) The State agency may accept a spoken signature but is not required to do so. A State agency that chooses to accept spoken signatures under this paragraph (c)(7)(viii) must specify in its State plan of operation that it has selected this option.

(B) An example of a spoken signature is saying "Yes" or "No", "I agree" or "I do not agree", or otherwise clearly indicating assent or agreement during an interview over the telephone.

(C) The State agency shall promptly provide to the household member a written copy of the completed application, with instructions for a simple procedure for correcting any errors or omissions.

(D) The State agency's procedure shall allow the household at least 10 calendar days to return corrections;

(E) The State agency shall regard the date of the signature as the date of application for all purposes.

(ix) *Gestured signatures.* These provisions apply specifically to gestured signatures.

(A) The State agency may accept a gestured signature but is not required to do so.

(B) Gestured signatures include the use of signs and expressions to communicate "Yes" or "I agree" in American Sign Language (ASL), Manually Coded English (MCE) or another similar language or method during an interview, in person or over a video link.

(C) The State agency shall promptly provide to the household member a written copy of the completed application, with instructions for a simple procedure for correcting any errors or omissions.

(D) The State agency's procedure shall allow the household at least 10 calendar days to return corrections.

(E) The State agency shall regard the date of the signature as the date of application for all purposes.

\* \* \* \* \*

(e) \* \* \*

(2) The State agency may waive the face-to-face interview required in paragraph (e)(1) of this section in favor of a telephone interview on a case-by-case basis because of household hardship situations as determined by the State agency; for specified categories of households; or for all applicant households. However, the State agency must grant a face-to-face interview to any household that requests one. The State agency has the option of conducting a telephone interview or a home visit that is scheduled in advance with the household if the office interview is waived. A State agency that chooses to interview households by telephone in lieu of the face-to-face interview must specify this choice in its State plan of operation and describe the types of households that will be routinely offered a telephone interview in lieu of a face-to-face interview.

\* \* \* \* \*

(i) \* \* \*

(3) \* \* \*

(i) \* \* \* For households entitled to expedited service, the State agency shall post benefits to the household's EBT card and make them available to the household not later than the 7th calendar day following the date an application was filed. \* \* \* Whatever systems a State agency uses to ensure meeting this delivery standard shall be designed to allow a reasonable opportunity for providing the household with an EBT card and PIN no later than the 7th calendar day following the day the application was filed.

(ii) *Drug addicts and alcoholics, group living arrangement facilities.* For residents of drug addiction or alcoholic treatment and rehabilitation centers and residents of group living arrangements who are entitled to expedited service, the State agency shall make benefits available to the recipient not later than the 7 calendar days following the date an application was filed.

\* \* \* \* \*

(k) \* \* \*

(1) \* \* \*

(i) \* \* \*

(O) \* \* \* It shall also include the client's rights and responsibilities (including fair hearings, authorized representatives, out-of-office interviews, reporting changes and timely reapplication), information on how and where to obtain an EBT card and PIN and how to use an EBT card and PIN (including the commodities clients may purchase with SNAP benefits.

\* \* \* \* \*

7. In § 273.5, revise paragraph (b)(5) to read as follows:

#### § 273.5 Students.

\* \* \* \* \*

(b) \* \* \*

(5) Be employed for a minimum of 20 hours per week; and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receiving weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours. The State agency may determine compliance with this requirement by averaging the number of hours worked per week based on employment of a minimum of 80 hours per month. A State agency that chooses to average student work hours must specify this choice in its State plan of operation.

\* \* \* \* \*

8. In § 273.7:

- Amend paragraph (d)(3)(ix) by removing the first sentence;
- Add new paragraph (e)(1)(viii);
- Revise paragraph (e)(4)(iii);

e. Amend introductory paragraph (k) by removing the words "SNAP coupon" and adding in their place the words "SNAP benefit";

f. Amend paragraph (k)(4) by removing the words "SNAP coupon" and adding in their place the words "SNAP benefit";

g. Amend paragraph (k)(6) by removing the words "SNAP coupon" and adding in their place the words "SNAP benefit";

h. Amend paragraph (m)(1) by removing the word "coupon" and adding in its place the word "benefit"; and

i. Amend paragraph (m)(5)(ii) by removing the word "coupon" and adding in its place the word "benefit".

The addition and revision read as follows:

#### § 273.7 Work provisions.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(viii) Job retention services that are designed to help achieve satisfactory performance, retain employment and to increase earnings over time. The State agency may offer job retention services for up to 90 days to an individual who has secured employment. The State agency may provide job retention services to households leaving SNAP up to the 90-day limit. The participant must have secured employment after receiving other employment/training services under the E&T program offered by the State agency. An otherwise eligible individual who refuses or fails to accept job retention services offered by the State agency may not be disqualified as specified in paragraph (f)(2) of this section.

\* \* \* \* \*

(4) \* \* \*

(iii) Voluntary participants are not subject to the limitations specified in paragraph (e)(3) of this section.

\* \* \* \* \*

9. In § 273.8:

a. Revise paragraphs (b), (c)(1), and (e)(2); and

b. Add a new paragraph (e)(20).

The revisions and addition read as follows:

#### § 273.8 Resource eligibility standards.

\* \* \* \* \*

(b) *Maximum allowable financial resources.* The maximum allowable liquid and non-liquid financial resources of all members of a household without elderly or disabled members shall not exceed \$2,000, as adjusted for inflation in accordance with paragraph (b)(1) of this section. For households including one or more disabled or



elderly members or one or more members over age 60, such financial resources shall not exceed \$3,000, as adjusted for inflation in accordance with paragraph (b)(2) of this section.

(1) Beginning October 1, 2008, and each October 1 thereafter, the maximum allowable financial resources shall be adjusted and rounded down to the nearest \$250 to reflect changes in the Consumer Price Index for the All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor (for the 12-month period ending the preceding June).

(2) Each adjustment shall be based on the unrounded amount for the prior 12-month period.

(c) \* \* \*

(1) Liquid resources, such as cash on hand, money in checking and savings accounts, saving certificates, stocks or bonds, and lump sum payments as specified in § 273.9(c)(8); and

\* \* \* \* \*

(e) \* \* \*

(2) Household goods, personal effects, the cash value of life insurance policies, one burial plot per household member, and the value of one bona fide funeral agreement per household member, provided that the agreement does not exceed \$1,500 in equity value, in which event the value above \$1,500 is counted. The cash value of pension plans or funds shall be excluded. The following retirement accounts shall be excluded:

(i) Funds in a plan, contract, or account that meet the following sections of the Internal Revenue Code of 1986:

(A) Section 401(a), which includes funds commonly known as “tax qualified plans” or “401(k) plans”;

(B) Section 403(a), which includes funds that are similar to 401(a) but are funded through annuity insurance;

(C) Section 403(b), which includes retirement plans for some employees of public schools and tax exempt organizations;

(D) Section 408, which includes traditional Individual Retirement Accounts and Annuities (IRAs);

(E) Section 408A plans, which include plans commonly known as Roth IRAs;

(F) Section 457(b); and

(G) Section 501(c)(18).

(ii) Funds in a Federal Thrift Savings Plan as defined by 5 U.S.C. 83.

(iii) Any other retirement plan that is designated tax-exempt under a similar provision of the Internal Revenue Code of 1986.

(iv) FNS reserves the right to exclude other retirement accounts from financial resources and will provide notification

of these provisions through policy memoranda.

\* \* \* \* \*

(20) The following education accounts are excluded from allowable financial resources:

(i) Funds in a qualified tuition program, as defined by section 529 of the Internal Revenue Code of 1986; and

(ii) Coverdell education savings accounts, as defined by section 530 of the Internal Revenue Code of 1986.

(iii) FNS reserves the right to exclude other education programs, contracts, or accounts from financial resources and will provide notification of these provisions through policy memoranda.

\* \* \* \* \*

10. In § 273.9:

a. Amend paragraph (a)(4) by removing the Web site “[www.fns.usda.gov/fsp](http://www.fns.usda.gov/fsp)” and replacing them with the Web site “[www.fns.usda.gov/snap](http://www.fns.usda.gov/snap)”

b. Amend the second sentence of paragraph (b)(1)(iii) by removing the words in the second sentence “Job Training Partnership Act” and replacing them with the words “Workforce Investment Act of 1998”;

c. Amend the first sentence of paragraph (b)(1)(v) by removing the words “section 204(b)(1)(C) or section 264(c)(1)(A)” and replacing them with the words “title 1 of the Workforce Investment Act of 1998”;

d. Amend paragraph (c)(10)(v) by removing the words “Job Training Partnership Act (Pub. L. 90–300)” and replacing them with the words “Workforce Investment Act of 1998”;

e. Add new paragraph (c)(20);

f. Revise paragraphs (d)(1)(iii);

g. Amend the second sentence of paragraph (d)(3)(x), by removing the word “coupon” and replacing it with the word “benefit”; and

h. Revise paragraph (d)(4).

The addition and revisions read as follows:

#### § 273.9 Income and deductions.

\* \* \* \* \*

(c) \* \* \*

(20) Income received by a member of the United States Armed Forces under 37 U.S.C., Chapter 5 or otherwise designated by the Secretary as excludable that is:

(i) Received in addition to the service member’s basic pay;

(ii) Received as a result of the service member’s deployment to or service in an area designated as a combat zone as determined pursuant to Executive Order or Public Law; and

(iii) Not received by the service member prior to the service member’s

deployment to or service in a Federally-designated combat zone.

(d) \* \* \*

(1) \* \* \*

(iii) *Minimum deduction levels.*

Notwithstanding paragraphs (d)(1)(i) and (d)(1)(ii) of this section, the standard deduction for FY 2009 for each household in the 48 States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands shall not be less than \$144, \$246, \$203, \$289, and \$127, respectively. Beginning FY 2010 and each fiscal year thereafter, the amount of the minimum standard deduction is equal to the unrounded amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.

\* \* \* \* \*

(4) *Dependent Care.* Payments for dependent care when necessary for a household member to accept or continue employment, comply with the employment and training requirements as specified under § 273.7(e), or attend training or pursue education that is preparatory to employment, except as provided in § 273.10(d)(1)(i). Costs that may be deducted are limited to the care of a household member who requires dependent care, including care of a child through the age of 15 or an incapacitated person of any age in need of dependent care. Dependent care expenses must be separately identified, necessary to participate in the care arrangement, and not already paid by another source on behalf of the household. Allowable dependent care costs include:

(i) The costs of care given by an individual care provider or care facility;

(ii) Transportation costs to and from the care facility; and

(iii) Activity fees associated with the care provided to the dependent that are necessary for the household to participate in or maintain the care.

\* \* \* \* \*

11. In § 273.10:

a. Amend paragraph (e)(1)(i)(E) by removing the words “up to a maximum amount”;

b. Revise paragraph (e)(2)(ii)(C); and

c. Amend paragraph (e)(2)(vi) by replacing the word “households” with the word “household”.

The revision read as follows:

#### § 273.10 Determining household eligibility and benefit levels.

\* \* \* \* \*

- (e) \* \* \*
- (2) \* \* \*
- (ii) \* \* \*

(C) Except during an initial month, all eligible one- and two-person households shall receive minimum monthly allotments equal to the minimum benefit. The minimum benefit is 8 percent of the maximum allotment for a household of one, rounded to the nearest whole dollar.

\* \* \* \* \*

12. In § 273.11:

a. Remove paragraph (e)(2)(iii) and redesignate paragraph (e)(2)(iv) as paragraph (e)(2)(iii);

b. Redesignate paragraphs (e)(5), (e)(6), and (e)(7) as paragraphs (e)(6), (e)(7), and (e)(8);

c. Add a new paragraph (e)(5);

d. Revise newly redesignated paragraph (e)(6);

e. Revise the last sentence of newly redesignated paragraph (e)(7);

f. Revise the second and fourth sentences of newly redesignated paragraph (e)(8);

g. Remove the last sentence of paragraph (f)(4);

h. Revise paragraph (f)(5);

i. Redesignate paragraphs (f)(6) and (f)(7) as paragraphs (f)(7) and (f)(8);

j. Add a new paragraph (f)(6);

k. Revise the first sentence of newly redesignated (f)(7); and

l. Revise the first sentence of newly redesignated (f)(8).

The additions and revisions read as follows:

**§ 273.11 Action on households with special circumstances.**

\* \* \* \* \*

- (e) \* \* \*

(5) DAA centers may redeem benefits in various ways depending on the State's EBT system design. The designs may include DAA use of individual household EBT cards at authorized stores, authorization of DAA centers as retailers with EBT access via POS at the center, DAA use of a center EBT card that is an aggregate of individual household benefits, and other designs. Regardless of the process elected, the State must ensure that the EBT design or DAA procedures prohibit the DAA from obtaining more than one-half of the household's allotment prior to the 16th of the month or permit the return of benefits to the household's EBT account through a refund, transfer, or other means. Guidelines for approval of EBT systems are contained in part 274 of this chapter.

(6) When a household leaves the center, the center must perform the following:

(i) *Notify the State agency.* If possible, the center must provide the household

with a change report form to report to the State agency the household's new address and other circumstances after leaving the center and must advise the household to return the form to the appropriate office of the State agency within 10 days. After the household leaves the center, the center can no longer act as the household's authorized representative for certification purposes or for obtaining or using benefits.

(ii) Provide the household with its EBT card if it was in the possession of the center. The center must return to the State agency any EBT card not provided to departing residents by the end of each month.

(iii) If no benefits have been spent on behalf of the individual household, the center must return the full value of any benefits already debited from the household's current monthly allotment back into the household's EBT account at the time the household leaves the center.

(iv) If the benefits have already been debited from the EBT account and any portion spent on behalf of the household, the following procedures must be followed.

(A) If the household leaves prior to the 16th day of the month, the center must ensure that the household has one-half of its monthly benefit allotment remaining in its EBT account unless the State agency issues semi-monthly allotments and the second half has not been posted yet.

(B) If the household leaves on or after the 16th day of the month, the State agency, at its option, may require the center to give the household a portion of its allotment. If the center is authorized as a retailer, the State agency may require the center to provide a refund for that amount back to the household's EBT account at the time that the household leaves the center. Under an EBT system where the center has an aggregate EBT card, the State agency may, but is not required to, transfer apportion of the household's monthly allotment from a center's EBT account back to the household's EBT account. In either case, the household, not the center, must be allowed to have sole access to any benefits remaining in the household's EBT account at the time the household leaves the center.

(v) If the household has already left the center, and as a result, the center is unable to return the benefits in accordance with this paragraph, the center must advise the State agency, and the State agency must effect the return instead. These procedures are applicable at any time during the month.

(7) \* \* \* The organization or institution shall be strictly liable for all losses or misuse of benefits and/or EBT cards held on behalf of resident households and for all overissuances which occur while the households are residents of the treatment center.

(8) \* \* \* The State agency shall promptly notify FNS when it has reason to believe that an organization or institution is misusing benefits and/or EBT cards in its possession. \* \* \* The State agency shall establish a claim for overissuances of benefits held on behalf of resident clients as stipulated in paragraph (e)(7) of this section if any overissuances are discovered during an investigation or hearing procedure for redemption violations. \* \* \*

\* \* \* \* \*

- (f) \* \* \*

(5) When the household leaves the facility, the GLA, either acting as an authorized representative or retaining use of the EBT card and benefits on behalf of the residents (regardless of the method of application), shall return the EBT card (if applicable) to the household. The household, not the GLA, shall have sole access to any benefits remaining in the household's EBT account at the time the household leaves the facility. The State agency must ensure that the EBT design or procedures for GLAs permit the GLA to return unused benefits to the household through a refund, transfer, or other means.

(6) If, at the time the household leaves, no benefits have been spent on behalf of that individual household, the facility must return the full value of any benefits already debited from the household's current monthly allotment back into the household's EBT account. These procedures are applicable at any time during the month. However, if the facility has already debited benefits and spent any portion of them on behalf of the individual, the facility shall do the following:

(i) If the household leaves the GLA prior to the 16th day of the month, the facility shall provide the household with its EBT card (if applicable) and one-half of its monthly benefit allotment. Where a group of residents has been certified as one household and a member of the household leaves the center:

(A) The facility shall return a pro rata share of one-half of the household's benefit allotment to the EBT account and advise the State agency that the individual is entitled to that pro rata share; and

(B) The State agency shall create a new EBT account for the individual,

issue a new EBT card and transfer the pro rata share from the original household's EBT account to the departing individual's EBT account. The facility will instruct the individual on how to obtain the new EBT card based on the State agency's card issuance procedures.

(ii) If the household or an individual member of the group household leaves on or after the 16th day of the month and the benefits have already been debited and used, the household or individual does not receive any benefits.

(iii) The GLA shall return to the State agency any EBT cards not provided to departing residents at the end of each month. Also, if the household has already left the facility and as a result, the facility is unable to perform the refund or transfer in accordance with this paragraph, the facility must advise the State agency, and the State agency must effect the return or transfer instead.

(iv) Once the resident leaves, the GLA no longer acts as his/her authorized representative. The GLA, if possible, shall provide the household with a change report form to report to the State agency the individual's new address and other circumstances after leaving the GLA and shall advise the household to return the form to the appropriate office of the State agency within 10 days.

(7) The same provisions applicable to drug and alcoholic treatment center in paragraphs (e)(7) and (e)(8) of this section also apply to GLAs when acting as an authorized representative. \* \* \*

(8) If the residents are certified on their own behalf, the benefits may either be debited by the GLA to be used to purchase meals served either communally or individually to eligible residents or retained by the residents and used to purchase and prepare food for their own consumption. \* \* \*

\* \* \*

#### 12. In § 273.12:

a. Revise paragraphs (a), (b), (c), and (d);

b. Amend paragraph (e)(1)(B) by removing the reference "273.9(d)(7)" and replacing it with the reference "273.9(d)(1); and

c. Amend paragraph (e)(1)(C) by removing the reference "273.9(d)(8)" and replacing it with the reference "273.9(d)(6)".

The revisions read as follows:

#### § 273.12 Reporting requirements.

(a) *General requirements.* Households participating in SNAP have a responsibility to report changes in their circumstances based on reporting system to which they are assigned by

the State agency. Households that are participating in Transitional Benefits Alternative are not required to report, but may report changes in their circumstances that occur while they are receiving SNAP transitional benefits. There are four client reporting systems to which State agencies may assign participating households. A State agency may not assign a household to more than one client reporting system for any given month. Whenever the State agency switches a household to a different reporting system, the State agency must notify the household of the change and explain any different reporting requirements with which the household must comply. The State agency must specify in its State plan of operation the client reporting systems selected, describe any option available under each reporting system that the State agency has chosen to implement, and identify the types of households that will be subject to each reporting system. For each client reporting system, State agencies shall not impose any additional reporting requirements on households beyond the requirements described in the SNAP regulations as follows:

(1) For change reporting, § 273.12(b);

(2) For monthly reporting, § 273.21;

(3) For quarterly reporting, § 273.12(c); and

(4) For simplified reporting, § 273.12(d).

(b) *Change reporting.* The State agency may establish a system of incident or change reporting. The following requirements are applicable to change reporting systems.

(1) *Features.* Households assigned to change reporting must report to the State agency whenever a change in any household circumstance identified in paragraph (b)(3) of this section occurs. Generally, changes must be reported within 10 days of the occurrence or within 10 days of the end of the month in which the change occurred.

(2) *Included households.* A State agency may assign any household to a change reporting system.

(3) *What households must report.* Households assigned to change reporting must report the following changes:

(i) A change of more than \$50 in unearned income, excluding households with jointly processed PA/SNAP or GA/SNAP cases;

(ii) A change in the source of income, including starting or stopping a job or changing jobs, if the amount of income changes;

(iii) A change in one of the following in earned income for households certified for 6 months or less:

(A) A change in the wage rate or salary or a change in full-time or part-time employment status (as determined by the employer or as defined in the State's PA program); or

(B) A change of more than \$100 in monthly earnings.

(iv) A change in household composition;

(v) A change in residence and resulting shelter cost changes;

(vi) Acquisition of a licensed vehicle that is not fully excludable under § 273.8(e), unless the State agency uses TANF vehicle rules, as provided at § 273.8(f)(4);

(vii) A change in liquid resources, such as cash, stocks, bonds, and bank accounts that reach or exceed \$3,000 for elderly or disabled households or \$2,000 for all other households, unless the State agency excludes resources when determining PA or SSI eligibility, as provided at § 273.2(j)(2)(v);

(viii) Reduced work hours for able-bodied adults without dependents (ABAWDs) subject to time limits of § 273.24, if the number of hours worked each week falls below 20 hours, based on a monthly average, as provided in § 273.24(a)(1)(i); and

(ix) A change in child support payments, if the household has a legal obligation to pay, unless the State agency has chosen to receive this information from the State Child Support Enforcement (CSE) agency, as provided at § 273.2(f)(1)(xii).

(4) *Special procedures for child support payments.* For households eligible for the child support exclusion at § 273.9(c)(17) or deduction at § 273.9(d)(5), the State agency may use information provided by the State CSE agency in determining the household's legal obligation to pay child support, the amount of its obligation and amounts the household has actually paid if the household pays its child support exclusively through its State CSE agency and has signed a statement authorizing release of its child support payment records to the State agency. Households do not have to provide any additional verification unless they disagree with the information provided by the State CSE. If a State agency chooses to utilize information provided by the State CSE agency in accordance with this paragraph, it must specify this choice in its State plan of operation. If the State agency does not choose to utilize information provided by its State CSE agency, the State agency may make reporting child support payments an optional change reporting item in accord in accordance with paragraph (b)(3)(ix) of this section.

(5) *How households must report.* (i) *Acceptable ways of reporting.* Households must notify the State agency of changes that have occurred to the household. The household may report by sending a change report form, by telephone, or in person. The State agency may also permit the household to report changes by other electronic means such as by fax, e-mail, or through the State agency's Web site.

(ii) *Change report form.* The State agency must provide the household with a form for reporting changes that occur during the certification period. At a minimum, the State agency must provide a change report form to households at certification, recertification, and whenever a change report form is returned by the household. A change report may be provided to households more often at the State agency's option. The change report form must be written in clear, simple language, and must meet the bilingual requirements described in § 272.4(b) of this chapter. The State agency shall pay for postage for return of the form. The report form must include:

(A) A list of the reportable items described in paragraph (b)(3) of this section and a statement that the household must report if any of these items have changed for the household since certification or the last change report filed, whichever is later;

(B) Space for the household to report whether the change will continue beyond the report month;

(C) The civil and criminal penalties for violations of the Act in understandable terms and in prominent and boldface lettering;

(D) A reminder to the household of its right to claim actual utility costs if its costs exceed the standard;

(E) The number of the SNAP office and a toll-free number or a number where direct calls will be accepted for households outside the local calling area; and

(F) If the State agency has chosen to disregard reported changes that affect some deductions in accordance with paragraph (b)(8)(ii) of this section, a statement explaining that the State agency will not change certain deductions until the household's next recertification and identifying those deductions.

(6) *When households must report.* (i) Applicants must report changes that occur after the interview but before the date of the notice of eligibility within 10 days of the date of the notice.

(ii) For all changes other than income, households must report changes within 10 days of the date the change becomes

known to the household, or at the State agency's option, the household must report changes within 10 days of the end of the month in which the change occurred.

(iii) For reportable changes in income, the State agency may require the changes to be reported as early as within 10 days of the date that the household becomes aware of the change or as late as 10 days after that the household received the first payment attributable to the change. For example, in the case of new employment, the State may require the household to report the change within 10 days of the date that the household becomes aware of the new employment, within 10 days of the date the employment begins or within 10 days of the date that the household receives its first paycheck.

(iv) If the State agency requires verification of changes that increase benefits, the household must provide the verification within 10 days from the date the change is reported to provide verification required by § 273.2(f)(8)(ii).

(7) *When households fail to report.* If the State agency discovers that the household failed to report a change as required by paragraph (b) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with § 273.18. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced. A household shall not be held liable for a claim because of a change in household circumstances that it is not required to report in accordance with § 273.12(b)(3). Individuals shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the disqualification procedures specified in § 273.16.

(8) *State agency action on changes.* (i) *General requirement to act.* The State agency shall take prompt action on all changes to determine if a change affects the household's eligibility or benefit level. However, the State agency has the option to disregard a reported change to an established deduction in accordance with paragraph (b)(8)(ii) of this section.

(A) *Exception for temporary income changes.* If the change is not expected to continue for at least 1 month beyond the month in which the change is reported, the State agency is not required to act on the change.

(B) *Exception for medical changes.* The State agency must not act on changes in the medical expenses of households eligible for the medical expense deduction unless the changes are considered verified upon receipt and

do not require contact with the household to verify. If changes to the household's medical expenses are considered verified upon receipt, then the State agency shall act on the changes as described in paragraph (b)(8) of this section.

(ii) *State agency postponement of action on reported changes.* (A) *Changes in certain deductible expenses.* Except for changes described in paragraph (b)(8)(ii)(C)(1) of this section, the State agency may postpone acting on reported changes to deductions allowed under § 273.9(d) and established at certification. If the State agency chooses to act on changes that affect a deduction, it may not act on changes to the deduction in only one direction, *i.e.*, changes that only increase or decrease the amount of the deduction, but must act on all changes that affect the deduction. A State agency that chooses to postpone changes in deductions must state in its State plan of operation that it has selected this option and specify the deductions affected. When the State agency opts to disregard a change in a deduction, the deduction amount established at certification will continue until the following occurs:

(1) The next recertification or after the 6th month of certification for households certified for 12 months that report a change in deductions during the first 6 months of the certification period;

(2) The required 12-month contact occurs for elderly or disabled households certified for 24 months in accordance with § 273.10(f)(1) that report a change in deductions during the first 12 months of the certification period;

(3) The 13th month of certification for households residing on reservations certified for 24 months in accordance with § 273.10(f)(2) and are required to submit monthly reports that report a change in deductions during the first 12 months of the certification; and

(4) The next recertification for households certified for 24 months in accordance with § 273.10(f)(1) and (f)(2) that report a change in deductions during the second 12 months of the certification period.

(B) *Changes in other reportable items.* Except for the changes described in paragraph (b)(8)(ii)(C)(2) of this section, the State agency may also postpone action on certain reportable items described in paragraph (b)(3) of this section when the changes are reported by the household or when the State agency learns of the changes from a source other than the household. The timeframes for required State agency action on the postponed reported items

shall be the same as for required State agency action on postponed deductions as described in paragraphs (b)(8)(ii)(A)(1)–(b)(8)(ii)(A)(4) of this section.

(C) *Changes that cannot be postponed.* State agencies may not postpone action on reported changes described in paragraphs (b)(8)(ii)(C)(1) and (b)(8)(ii)(C)(2) of this section.

(1) *Residence and shelter costs.* When a household reports a change in residence within the first 6 months of the certification period, the State agency must investigate and take action on corresponding changes in shelter costs. However, if a household fails to provide information regarding the associated changes in shelter costs within 10 days of the reported change in residence, the State agency should notify the household that its allotment will be recalculated without the deduction. The notice must explain that the household does not need to wait for its first utility or rental payments to contact the SNAP office. Alternative forms of verification may be accepted, if necessary.

(2) *Earned income and new deductions.* State agencies must act on reported changes in these items in accordance with paragraphs (b)(8)(v) and (b)(8)(vi) of this section.

(iii) *Notifying the household.* The State agency must notify the household of the receipt of the change report and how the reported change affects the household's eligibility or benefit level. The State agency must provide another change report form to the household. The State agency must also advise the household of additional verification requirements, if any, and inform the household that failure to provide verification will result in any increases in benefits reverting to the original level.

(iv) *Case file documentation.* The State agency must document the reported change in the household's case file, even if there is no change in the household's eligibility or benefit level. The State agency must document the date a change is reported, which shall be the date the State agency receives a report form or is advised of the change over the telephone or by a personal visit.

(v) *Changes that increase benefits.*

(A) *Timeframes for increasing benefit levels.*

(1) *If verification is required.* If the household provides verification on a timely basis as described in paragraph (b)(6)(iv) of this section, the State agency shall increase benefit levels no later than the first allotment issued 10 days after the date the change was reported. If the household does not

provide verification on a timely basis as described in paragraph (b)(6)(iv) of this section but does provide the verification at a later date, the State agency shall increase benefit levels no later than the first allotment issued 10 days after the verification was received. If the household does not provide required verification, the State agency shall not increase the household's benefits in response to the reported change.

(2) *Household composition or reduced income.* For changes that result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50 or more in the household's gross monthly income, the State agency shall make the change effective no later than the first allotment issued 10 days after the date the change was reported. However, in no event shall these changes take effect any later than the month following the month in which the change is reported. If it is too late for the State agency to adjust the following month's allotment, the State agency shall issue supplementary benefits or otherwise provide an opportunity for the household to obtain the increase in benefits by the 10th day of the following month, or the household's normal issuance cycle in that month, whichever is later. For example, a household reporting a \$100 decrease in income at any time during May would have its June allotment increased. If the household reported the change after the 20th of May and it was too late for the State agency to adjust the benefits normally issued on June 1st, the State agency would issue supplementary benefits for the amount of the increase by June 10th.

(3) *All other changes.* The State agency shall make the change effective no later than the first allotment issued 10 days after the date the change was reported to the State agency. For example, a \$30 decrease in income reported on the 15th of May would increase the household's June allotment. If the same decrease was reported on May 28th, and the household's normal issuance cycle was on June 1st, the household's allotment would have to be increased by July 1st.

(B) *Restoration of benefits.* The State agency shall restore lost benefits if it fails to act on a change that resulted in an increase of benefits and was reported in a timely manner, as described in paragraph (b)(8)(v)(A) of this section.

(vi) *Changes that decrease benefits.*

(A) *Timeframes for decreasing benefits.*

(1) *Notice of adverse action.* The State agency shall issue a notice of adverse

action within 10 days of the date the change was reported, unless one of the exemptions described at § 273.13(a)(3) or § 273.13(b) applies. The effective date of the benefit reduction shall be no later than the allotment for the month following the month in which the notice of adverse action period has expired, unless the household has requested a fair hearing and continuation of benefits.

(2) *Adequate notice.* If one of the exemptions described at § 273.13(a)(3) or § 273.13(b) applies, the State agency may issue an adequate notice instead of a notice of adverse action. The adequate notice must arrive no later than the date the benefit reduction is effective. The effective date of the benefit reduction shall be no later than the month following the change was reported.

(B) *Verified information that reduces benefits.* If the household submits verification of a change results in reduced benefits, the State agency shall establish a claim for the overissuance in accordance with § 273.18. If State agency determines that a household has refused to cooperate as defined in § 273.2(d), the State agency shall issue a notice of adverse action and terminate the household's eligibility. If a household has refused to provide verification as a part of the State agency's reporting system requirements, the household must provide the required verification at a subsequent certification or recertification.

(C) *Suspension of benefits.* The State agency may suspend a household's certification prospectively for 1 month if the household becomes temporarily ineligible because of a periodic increase in recurring income or other change not expected to continue in the subsequent month. If the suspended household again becomes eligible, the State agency shall issue benefits to the household on the household's normal issuance date. If the suspended household does not become eligible after 1 month, the State agency shall terminate the household's certification. Households are responsible for reporting changes as required by paragraph (b) of this section during the period of suspension.

(vii) *Unclear information.* During the certification period, the State agency may obtain information about changes in a household's circumstances from which the State agency cannot readily determine the effect of the change on the household's benefit amount. The State agency might receive such unclear information from a third party or from the household itself. The State agency must pursue clarification and verification of household circumstances using the following procedure:

(A) *Issue a request for contact.* The State agency must issue a written request for contact (RFC) which clearly advises the household of the verification it must provide or the actions it must take to clarify its circumstances, which affords the household at least 10 days to respond and to clarify its circumstances, either by telephone or by correspondence, as the State agency directs, and which states the consequences if the household fails to respond to the RFC.

(B) *Acceptable response to the RFC.* When the household responds to the RFC and provides sufficient information, the State agency must act on the new circumstances in accordance with paragraphs (b)(8)(i), (b)(8)(v) or (b)(8)(vi) of this section.

(C) *Failure to respond acceptably to the RFC.* The State agency has two options.

(1) *Option One—Termination.* If the household does not respond to the RFC, or does respond but refuses to provide sufficient information to clarify its circumstances, the State agency must issue a notice of adverse action as described in § 273.13, which terminates the case, explains the reasons for the action, and advises the household of the need to submit a new application if it wishes to continue participating in the program.

(2) *Option Two—Suspension.* If the household does not respond to the RFC, or does respond but refuses to provide sufficient information to clarify its circumstances, the State agency may elect to issue a notice of adverse action as described in § 273.13, which suspends the household for 1 month before the termination becomes effective, explains the reasons for the action, and advises the household of the need to submit a new application if it wishes to continue participating in the program. If a household responds satisfactorily to the RFC during the period of suspension, the State agency must:

(i) Reinstate the household without requiring a new application;

(ii) Issue the allotment for the month of suspension; and

(iii) If necessary, adjust the household's participation with a new notice of adverse action.

(C) *Quarterly reporting.* The State agency may establish a system of quarterly reporting. The following requirements are applicable to quarterly reporting systems.

(1) *Features.* SNAP households that are assigned to quarterly reporting must submit changes in household circumstances on a report form provided by the State agency three times

a year. Except for the requirement to report reduction in ABAWD work hours, as described at § 273.12(c)(3)(i), the State agency may determine what information households must report, including items required to be reported under the change reporting system described at § 273.12(c)(3)(ii). State agencies are required to act on changes reported by the household or otherwise become known in accordance with § 273.12(c)(8).

(2) *Included households.* The State agency may include all households within a quarterly reporting system, except migrant or seasonal farm worker households, households that have no earned income and in which all adult members are elderly or disabled, households in which all members are homeless individuals, or households assigned to the monthly reporting and simplified reporting systems described at §§ 273.21(b) and 273.12(d), respectively. The State agency may also limit quarterly reporting to specific categories of households.

(3) *What households must report.*

Households assigned to quarterly reporting to must report the following changes:

(i) Reduced work hours for able-bodied adults without dependents (ABAWDs) subject to time limits of § 273.24, if the number of hours worked each week falls below 20 hours, based on a monthly average, as provided in § 273.24(a)(1)(i); and

(ii) Other changes as required by the State agency, which may include the following items:

(A) A change of more than \$50 in unearned income, excluding households with jointly processed PA/SNAP or GA/SNAP cases;

(B) A change in the source of income, including starting or stopping a job or changing jobs, if the amount of income changes;

(C) A change in earned income for households certified for 6 months or less:

(1) A change in the wage rate or salary or a change in full-time or part-time employment status (as determined by the employer or as defined in the State's PA program); or

(2) A change of more than \$100 in monthly earnings.

(D) A change in household composition;

(E) A change in residence and resulting shelter cost changes;

(F) Acquisition of a licensed vehicle that is not fully excludable under § 273.8(e), unless the State agency uses TANF vehicle rules, as provided at § 273.8(f)(4);

(G) A change in liquid resources, such as cash, stocks, bonds, and bank accounts reach or exceed \$3,000 for elderly or disabled households or \$2,000 for all other households, unless the State agency excludes resources when determining PA or SSI eligibility, as provided at § 273.2(j)(2)(v); and

(H) A change in child support payments, if the household has a legal obligation to pay, unless the State agency receives this information from the State CSE agency, as provided at § 273.2(f)(1)(xii).

(4) *Special procedures for child support payments.* For households eligible for the child support exclusion at § 273.9(c)(17) or deduction at § 273.9(d)(5), the State agency may use information provided by the State CSE agency in determining the household's legal obligation to pay child support, the amount of its obligation and amounts the household has actually paid if the household pays its child support exclusively through its State CSE agency and has signed a statement authorizing release of its child support payment records to the State agency. Households do not have to provide any additional verification unless they disagree with the information provided by the State CSE. If a State agency chooses to utilize information provided by the State CSE agency in accordance with this paragraph (c)(4), it must specify this choice in its State plan of operation. If the State agency does not choose to utilize information provided by its State CSE agency, the State agency may make reporting child support payments an optional quarterly reporting item in accord in accordance with paragraph (c)(3)(ix) of this section.

(5) *How households must report.* Households must file a quarterly report form as required by the State agency. Except for reporting reduced work hours by ABAWD household members as described at § 273.12(c)(3)(i), the quarterly report shall be the sole reporting requirement for information that is required to be reported on the form. The State agency may limit the report to specific items while requiring that households report other items through the use of the change report form described at § 273.12(b)(5)(ii). If a household reports a change outside of the quarterly reporting timeframes established by the State agency, the State agency must act on the change in accordance with paragraph (c)(8) of this section.

(i) *State agency notification of household reporting requirements.* The State agency must notify households of the quarterly reporting requirement, including the consequences of failure to

file a report, at initial certification and recertification.

(ii) *Quarterly report form.* The State agency must provide the household with a form for reporting changes on a quarterly basis. At a minimum, the State agency must provide a quarterly report form to households at certification, recertification, and after a quarterly report form is returned by the household. The quarterly report form must be written in clear, simple language, and must meet the bilingual requirements described in § 272.4(b) of this chapter. The report form must include:

(A) A list of the reportable items described in paragraph (c)(3) of this section and a statement that the household must report if any of these items have changed for the household since certification or the last quarterly report filed, whichever is later;

(B) The date by which the agency must receive the form;

(C) The consequences of submitting a late or incomplete form, including whether the State agency will delay payment if the form is not received by a specified date;

(D) The verification that the household must submit with the form;

(E) Where the household may call to obtain help in completing the form;

(F) A statement to be signed by a member of the household (in accordance with § 273.2(c)(7) regarding acceptable methods of signature) indicating his or her understanding that the information provided may result in reduction or termination of benefits;

(G) A brief description of the SNAP fraud penalties;

(H) If the State agency has chosen to disregard reported changes that affect certain deductions in accordance with paragraph (c)(8)(ii) of this section, a statement explaining that the State agency will not change certain deductions until the household's next recertification and identify those deductions; and

(I) If the form requests social security numbers, the following information, which may be on the form itself or included as an attachment to the form:

(1) A statement of the State agency's authority to require social security numbers (including the statutory citation, the title of the statute, and the fact that providing social security numbers is mandatory);

(2) The purpose of requiring social security numbers;

(3) The routine uses for social security numbers; and

(4) The consequences of not providing social security numbers.

(6) *When households must report.* (i) *Changes occurring prior to certification.* Applicants in a quarterly reporting system must report changes that occur after the interview but before the date of the notice of eligibility no later than 10 days from the date the notice was received.

(ii) *Reduced ABAWD work hours.* Households must report changes described in § 273.12(c)(3)(i) no later than 10 days from the end of the month in which the reduced work hours occurred.

(iii) *Filing the quarterly report.* The State agency shall specify the date by which each quarterly report must be filed. The State agency shall provide the household a reasonable period after the end of the last month covered by the report in which to return the report.

(7) *If households fail to report.* (i) *Quarterly report.* If a household fails to file a complete report by the specified filing date, the State agency must send a notice to the household advising it of the missing or incomplete report no later than 10 days from the date the report should have been submitted. If the household does not respond to the notice, the household's participation must be terminated. The State agency may combine the notice of a missing or incomplete report with the adequate notice of termination described in paragraph (c)(8) of this section. A household shall not be held liable for a claim because of a change in household circumstances that it is not required to report in accordance with § 273.12(c)(3).

(ii) *Reportable changes outside of the quarterly report.* If the State agency discovers that the household failed to report a reduction in the hours worked by an ABAWD household member, as required by paragraph (c)(3)(i) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with § 273.18. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced.

(8) *State agency action on changes.* (i) *General requirement to act.* The State agency shall take prompt action on all changes to determine if a change affects the household's eligibility or benefit level. However, the State agency has the option to disregard a reported change to an established deduction in accordance with paragraph (c)(8)(ii) of this section.

(A) *Exception for temporary income changes.* If the change is not expected to continue for at least 1 month beyond the month in which the change is reported, the State agency is not required to act on the change.

(B) *Exception for medical changes.*

The State agency must not act on changes in the medical expenses of households eligible for the medical expense deduction unless the changes are considered verified upon receipt and do not require contact with the household to verify. If changes to the household's medical expenses are considered verified upon receipt, then the State agency shall act on the changes as described in paragraph (b)(8) of this section.

(ii) *State agency postponement of action on reported changes.* (A) *Changes in certain deductible expenses.* Except for changes described in paragraph (c)(8)(ii)(C)(1) of this section, the State agency may postpone acting on reported changes to deductions allowed under § 273.9(d) and established at certification. If the State agency chooses to act on changes that affect a deduction, it may not act on changes to the deduction in only one direction, *i.e.*, changes that only increase or decrease the amount of the deduction, but must act on all changes that affect the deduction. A State agency that chooses to postpone changes in deductions must state in its State plan of operation that it has selected this option and specify the deductions affected. When the State agency opts to disregard a change in a deduction, the deduction amount established at certification will continue until the following occurs:

(1) The next recertification or after the 6th month of certification for households certified for 12 months that report a change in deductions during the first 6 months of the certification period;

(2) The required 12-month contact occurs for elderly and disabled households certified for 24 months in accordance with § 273.10(f)(1) that report a change in deductions during the first 12 months of the certification period;

(3) The 13th month of certification for households residing on reservations certified for 24 months in accordance with § 273.10(f)(2) and are required to submit monthly reports that report a change in deductions during the first 12 months of the certification; and

(4) The next recertification for households certified for 24 months in accordance with § 273.10(f)(1) and (f)(2) that report a change in deductions during the second 12 months of the certification period.

(B) *Changes in other reportable items.* Except for the changes described in paragraph (c)(8)(ii)(C)(2) of this section, the State agency may also postpone action on certain reportable items described in paragraph (c)(3) of this



section when the changes are reported by the household or when the State agency learns of the changes from a source other than the household. The timeframes for required State agency action on the postponed reported items shall be the same as for required State agency action on postponed deductions as described in paragraphs (c)(8)(ii)(A)(1)–(c)(8)(ii)(A)(1)(4) of this section.

(C) *Changes that cannot be postponed.* State agencies may not postpone action on reported changes described in paragraphs (c)(8)(ii)(C)(1)–(c)(8)(ii)(C)(2) of this section.

(1) *Residence and shelter costs.* When a household reports a change in residence within the first 6 months of the certification period, the State agency must investigate and take action on corresponding changes in shelter costs. However, if a household fails to provide information regarding the associated changes in shelter costs within 10 days of the reported change in residence, the State agency should notify the household that its allotment will be recalculated without the deduction. The notice must explain that the household does not need to wait for its first utility or rental payments to contact the SNAP office. Alternative forms of verification may be accepted, if necessary.

(2) *Earned income and new deductions.* If the State agencies must act on reported changes in these items in accordance with paragraphs (c)(8)(v) and (c)(8)(vi) of this section.

(ii) *Notifying the household.* The State agency must notify the household of the receipt of the quarterly report and how the report affects the household's eligibility or benefit level. The State agency must also provide another quarterly report form to the household. The State agency must also advise the household of additional verification requirements, if any, and inform the household that failure to provide verification will result in any increases in benefits reverting to the original level.

(iii) *Case file documentation.* The State agency must document receipt of the quarterly report in the household's case file, even if there is no change in the household's eligibility or benefit level. The State agency must document the date the report is received. The State agency shall also document the date any other change is reported by the household in addition to the quarterly report.

(iv) *Changes that increase benefits.* (A) *Timeframes for increasing benefit levels.* (1) *If verification is required.* If the household provides verification on a timely basis as required by the State

agency, the State agency shall increase benefit levels no later than the first allotment issued 10 days after the quarterly report was received. If the household does not provide verification on a timely basis as required by the State agency but does provide the verification at a later date, the State agency shall increase benefit levels no later than the first allotment issued 10 days after the verification was received. If the household does not provide required verification, the State agency shall not increase the household's benefits in response to the change reported on the quarterly report.

(2) *Household composition or reduced income.* For changes that result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50 or more in the household's gross monthly income, the State agency shall make the change effective not later than the first allotment issued 10 days after the date the change was reported. However, in no event shall these changes take effect any later than the month following the month in which the change is reported. If it is too late for the State agency to adjust the following month's allotment, the State agency shall issue supplementary benefits or otherwise provide an opportunity for the household to obtain the increase in benefits by the 10th day of the following month, or the household's normal issuance cycle in that month, whichever is later. For example, a household reporting a \$100 decrease in income at any time during May would have its June allotment increased. If the household reported the change after the 20th of May and it was too late for the State agency to adjust the benefits normally issued on June 1st, the State agency would issue supplementary benefits for the amount of the increase by June 10th.

(3) *All other changes.* The State agency shall make the change effective no later than the first allotment issued 10 days after the date the change was reported to the State agency. For example, a \$30 decrease in income reported on the 15th of May would increase the household's June allotment. If the same decrease was reported on May 28, and the household's normal issuance cycle was on June 1st, the household's allotment would have to be increased by July.

(B) *Restoration of benefits.* The State agency shall restore lost benefits if it fails to act on a change that resulted in an increase of benefits and was reported in a timely manner, as described in paragraph (c)(5)(ii) of this section.

(v) *Changes that decrease benefits.* (A) *Timeframes for decreasing benefits.* (1) *Notice of adverse action.* The State agency shall issue a notice of adverse action within 10 days of the date the change was reported, unless one of the exemptions described at § 273.13(a)(3) or (b) applies. The effective date of the benefit reduction shall be no later than the allotment for the month following the month in which the notice of adverse action period has expired, unless the household has requested a fair hearing and continuation of benefits.

(2) *Adequate notice.* If one of the exemptions described at § 273.13(a)(3) or (b) applies, the State agency may issue an adequate notice instead of a notice of adverse action. The adequate notice must arrive no later than the date the benefit reduction is effective. The effective date of the benefit reduction shall be no later than the month following the change was reported.

(B) *Verified information that reduces benefits.* If the household submits verification of a change results in reduced benefits, the State agency shall establish a claim for the overissuance in accordance with § 273.18. If State agency determines that a household has refused to cooperate as defined in § 273.2(d), the State agency shall issue a notice of adverse action and terminate the household's eligibility. If a household has refused to provide verification as a part of the State agency's reporting system requirements, the household must provide the required verification at a subsequent certification or recertification.

(C) *Suspension of benefits.* The State agency may suspend a household's certification prospectively for 1 month if the household becomes temporarily ineligible because of a periodic increase in recurring income or other change not expected to continue in the subsequent month. If the suspended household again becomes eligible, the State agency shall issue benefits to the household on the household's normal issuance date. If the suspended household does not become eligible after one month, the State agency shall terminate the household's certification. Households are responsible for reporting changes as required by paragraph (c) of this section during the period of suspension.

(vi) *Unclear information.* During the certification period, the State agency may obtain information about changes in a household's circumstances from which the State agency cannot readily determine the effect of the change on the household's benefit amount. The State agency might receive such unclear information from a third party or from



the household itself. The State agency must pursue clarification and verification of household circumstances using the following procedure:

(A) *Issue a request for contact (RFC).*

The State agency must issue a written RFC which clearly advises the household of the verification it must provide or the actions it must take to clarify its circumstances, which affords the household at least 10 days to respond and to clarify its circumstances, either by telephone or by correspondence, as the State agency directs, and which states the consequences if the household fails to respond to the RFC.

(B) *Acceptable response to the RFC.*

When the household responds to the RFC and provides sufficient information, the State agency must act on the new circumstances in accordance with paragraphs (c)(8)(i), (c)(8)(v), or (c)(8)(vi) of this section.

(C) *Failure to respond acceptably to the RFC.* The State agency has two options.

(1) *Option One—Termination.* If the household does not respond to the RFC, or does respond but refuses to provide sufficient information to clarify its circumstances, the State agency must issue a notice of adverse action as described in § 273.13, which terminates the case, explains the reasons for the action, and advises the household of the need to submit a new application if it wishes to continue participating in the program.

(2) *Option Two—Suspension.* If the household does not respond to the RFC, or does respond but refuses to provide sufficient information to clarify its circumstances, the State agency may elect to issue a notice of adverse action as described in § 273.13, which suspends the household for 1 month before the termination becomes effective, explains the reasons for the action, and advises the household of the need to submit a new application if it wishes to continue participating in the program. If a household responds satisfactorily to the RFC during the period of suspension, the State agency must:

(i) Reinstate the household without requiring a new application;

(ii) Issue the allotment for the month of suspension; and

(iii) If necessary, adjust the household's participation with a new notice of adverse action.

(d) *Simplified reporting.* The State agency may establish a simplified reporting system. The following requirements are applicable to simplified reporting systems. A State agency that chooses to use simplified

reporting procedures in accordance with this section must indicate this choice in its State Plan of Operation and specify the types of households to whom the simplified reporting requirements apply.

(1) *Features.* Simplified reporting requires minimal household reporting in comparison to the other types of household reporting systems that are available to State agencies under the SNAP regulations. During the certification period, a household must only report if gross monthly income exceeds the SNAP gross monthly income standard and if the work hours of an ABAWD falls below the minimum average of 20 hours. In addition, the State agency must require all households certified for longer than 6 months, except for households in which all adults are elderly or disabled with no earnings, to submit a periodic report. The periodic report is generally due about halfway through the certification period, for which certain changes that have occurred since certification must be reported.

(2) *Included households.* The State agency may include any household certified for at least 4 months within a simplified reporting system.

(3) *What households must report.* (i) At any time during the certification period, households must report:

(A) Gross monthly income that exceeds 130 percent of the monthly Federal poverty income guideline for the household's size that existed at the most recent certification or recertification regardless of any changes in household size; and

(B) Reduced work hours for ABAWDs subject to time limits of § 273.24, if the number of hours worked each week falls below 20 hours, based on a monthly average, as provided in § 273.24(a)(1)(i).

(ii) Households required to file a periodic report as described in paragraph (d)(5)(ii) of this section must report changes in the following:

(A) A change of more than \$50 in unearned income, excluding households with jointly processed PA/SNAP or GA/SNAP cases;

(B) A change in the source of income, including starting or stopping a job or changing jobs, if the amount of income changes;

(C) A change in earned income for households certified for 6 months or less:

(1) A change in the wage rate or salary or a change in full-time or part-time employment status (as determined by the employer or as defined in the State's PA program); or

(2) A change of more than \$100 in monthly earnings.

(D) A change in household composition;

(E) A change in residence and resulting shelter cost changes;

(F) Acquisition of a licensed vehicle that is not fully excludable under § 273.8(e), unless the State agency uses TANF vehicle rules, as provided at § 273.8(f)(4);

(G) A change in liquid resources, such as cash, stocks, bonds, and bank accounts reach or exceed \$3,000 for elderly or disabled households or \$2,000 for all other households, unless the State agency excludes resources when determining PA or SSI eligibility, as provided at § 273.2(j)(2)(v); and

(H) A change in child support payments, if the household has a legal obligation to pay, unless the State agency receives this information from the State CSE agency, as provided at § 273.2(f)(1)(xii);

(4) *Special procedures for child support payments.* For households eligible for the child support exclusion at § 273.9(c)(17) or deduction at § 273.9(d)(5), the State agency may use information provided by the State CSE agency in determining the household's legal obligation to pay child support, the amount of its obligation and amounts the household has actually paid if the household pays its child support exclusively through its State CSE agency and has signed a statement authorizing release of its child support payment records to the State agency. Households do not have to provide any additional verification unless they disagree with the information provided by the State CSE. If a State agency chooses to utilize information provided by the State CSE agency in accordance with this paragraph (d)(4), it must specify this choice in its State plan of operation. If the State agency does not choose to utilize information provided by its State CSE agency, the State agency may make reporting child support payments an optional periodic reporting item in accordance with paragraph (d)(3)(ii)(H) of this section.

(5) *How households report changes.* All households subject to simplified reporting requirements must report the changes described in paragraph (d)(3)(i) using procedures required by the State agency. Households subject to periodic reporting must also report the changes listed in paragraph (d)(3)(ii) on the periodic form provided by the State agency.

(i) *State agency notification of household reporting requirements.* The State agency must explain the simplified reporting requirements to households at certification, recertification, and if the State agency

transfers the household to simplified reporting. The State agency must provide the following information to the household:

(A) A written or oral explanation of how simplified reporting works, including what needs to be reported and verified and the consequences of failing to report changes;

(B) For households required to submit a periodic report, the additional changes that must be addressed in the periodic report, when the periodic report must be filed and how to obtain assistance in filing the periodic report; and

(C) A telephone number (toll-free number or a number where collect calls will be accepted outside the local calling area) that the household may call to ask questions or obtain help in reporting changes or completing the periodic report; and

(D) Special assistance in completing and filing periodic reports to households whose adult members are all either mentally or physically disabled or are non-English speaking or otherwise lacking in reading and writing skills that prevent them from completing and filing the report.

(ii) *Periodic report forms.* The periodic report shall be the sole reporting instrument for changes required to be reported under paragraph (d)(3)(ii) of this section, and the State agency may not require additional information to be reported on the periodic report form other than the requirements described under paragraph (d)(3)(ii) of this section. The State agency must provide periodic report forms to all households that are required to file periodic reports as described at paragraph (d)(6)(iii) of this section. At a minimum, the State agency must provide a periodic report form to households at certification, recertification, and after a periodic report form is returned by the household. The periodic report form must be written in clear, simple language, and must meet the bilingual requirements described in § 272.4(b) of this chapter. The periodic report form must include:

(A) A list of the reportable items described in paragraph (d)(3) of this section and a statement that the household must report if any of these items have changed for the household since certification or the last periodic report was filed, whichever is more recent;

(B) The date by which the agency must receive the form;

(C) The consequences of submitting a late or incomplete form;

(D) The verification that the household must submit with the form;

(E) Where the household may call for help in completing the form;

(F) A statement to be signed by a member of the household (in accordance with § 273.2(c)(7) regarding acceptable methods of signature) indicating his or her understanding that the information provided may result in reduction or termination of benefits;

(G) A brief description of the SNAP fraud penalties;

(H) If the State agency has chosen to disregard reported changes that affect certain deductions in accordance with paragraph (d)(8)(ii) of this section, a statement explaining that the State agency will not change certain deductions until the household's next recertification and identify those deductions; and

(I) If the form requests social security numbers, the following information, which may be on the form itself or included as an attachment to the form:

(1) A statement of the State agency's authority to require social security numbers (including the statutory citation, the title of the statute, and the fact that providing social security numbers is mandatory);

(2) The purpose of requiring social security numbers;

(3) The routine uses for social security numbers; and

(4) The consequences of not providing social security numbers.

(6) *When households must report.* (i) *Changes occurring prior to certification.* Applicants in a simplified reporting system must report changes that occur after the interview but before the date of the notice of eligibility no later than 10 days from the end of the calendar month in which the eligibility notice was received.

(ii) *Reduced ABAWD work hours or excess gross monthly income.* A household must report when average weekly hours worked by an ABAWD member of the household falls below 20 hours. A household must also report when its gross monthly income exceeds the gross monthly income limit for its size. A household must report either of these changes no later than 10 days from the end of the calendar month in which the change occurred, provided that the household has at least 10 days within which to report the change.

(iii) *Periodic reports.* (A) *Exempt households.* The State agency must not require the submission of periodic reports by households certified for 12 months or less in which all adult members are elderly or disabled with no earned income.

(B) *Submission of periodic reports by non-exempt households.* Households that are certified for longer than 6

months, except those in which all adult members are elderly or disabled with no earned income, must file a periodic report between 4 months and 6 months, as required by the State agency.

Households in which all adult members are elderly or disabled with no earned income and that are certified for periods lasting between 13 months and 24 months must file a periodic report once a year. In selecting a due date for the periodic report, the State agency must provide itself sufficient time to process reports so that households that have reported changes that will reduce or terminate benefits will receive adequate notice of action on the report in the first month of the new reporting period.

(7) *When households fail to report.* (i) *Reportable changes outside of the periodic report.* If the State agency discovers that the household failed to report a change as required by paragraphs (d)(3)(i) and (d)(3)(ii) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with § 273.18. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced.

(ii) *Periodic report.* If a household fails to file a complete periodic report by the filing date required by the State agency, the State agency must send a notice to the household advising it of the missing or incomplete report no later than 10 days from the date the report should have been submitted. If the household does not respond to the notice, the household's participation must be terminated. The State agency may combine the notice of a missing or incomplete report with the adequate notice of termination described in paragraph (d)(8) of this section. A household shall not be held liable for a claim because of a change in household circumstances that it is not required to report in accordance with § 273.12(d)(3).

(8) *State agency action on changes.* (i) *General requirement to act.* The State agency shall take prompt action on all changes described in paragraphs (d)(8)(iii) or (d)(8)(iv) of this section to determine if a change affects the household's eligibility or benefit level. However, the State agency has the option to disregard a reported change to an established deduction in accordance with paragraph (d)(8)(ii) of this section.

(A) *Exception for temporary income changes.* If the change is not expected to continue for at least 1 month beyond the month in which the change is reported, the State agency is not required to act on the change.

(B) *Exception for medical changes.* The State agency must not act on changes in the medical expenses of households eligible for the medical expense deduction unless the changes are considered verified upon receipt and do not require contact with the household to verify. If changes to the household's medical expenses are considered verified upon receipt, then the State agency shall act on the changes as described in paragraph (d)(8) of this section.

(ii) *State agency postponement of action on reported changes.* (A) *Changes in certain deductible expenses.* Except for changes described in paragraph (d)(8)(ii)(C)(1) of this section, the State agency may postpone acting on reported changes to deductions allowed under § 273.9(d) and established at certification. If the State agency chooses to act on changes that affect a deduction, it may not act on changes to the deduction in only one direction, *i.e.*, changes that only increase or decrease the amount of the deduction, but must act on all changes that affect the deduction. A State agency that chooses to postpone changes in deductions must state in its State plan of operation that it has selected this option and specify the deductions affected. When the State agency opts to disregard a change in a deduction, the deduction amount established at certification will continue until the following occurs:

(1) The next recertification or after the 6th month of certification for households certified for 12 months that report a change in deductions during the first 6 months of the certification period;

(2) The required 12-month contact occurs for elderly and disabled households certified for 24 months in accordance with § 273.10(f)(1) that report a change in deductions during the first 12 months of the certification period;

(3) The 13th month of certification for households residing on reservations certified for 24 months in accordance with § 273.10(f)(2) and are required to submit monthly reports that report a change in deductions during the first 12 months of the certification; and

(4) The next recertification for households certified for 24 months in accordance with §§ 273.10(f)(1) and (f)(2) that report a change in deductions during the second 12 months of the certification period.

(B) *Changes in other reportable items.* Except for the changes described in paragraph (d)(8)(ii)(C)(2) of this section, the State agency may also postpone action on certain reportable items described in paragraph (d)(3) of this

section when the changes are reported by the household or when the State agency learns of the changes from a source other than the household. The timeframes for required State agency action on the postponed reported items shall be the same as for required State agency action on postponed deductions as described in paragraphs (d)(8)(ii)(A)(1)–(d)(8)(ii)(A)(4) of this section.

(C) *Changes that cannot be postponed.* State agencies may not postpone action on reported changes described in paragraphs (d)(8)(ii)(C)(1)–(d)(8)(ii)(C)(2) of this section.

(1) *Residence and shelter costs.* When a household reports a change in residence within the first 6 months of the certification period, the State agency must investigate and take action on corresponding changes in shelter costs. However, if a household fails to provide information regarding the associated changes in shelter costs within 10 days of the reported change in residence, the State agency should notify the household that its allotment will be recalculated without the deduction. The notice must explain that the household does not need to wait for its first utility or rental payments to contact the SNAP office. Alternative forms of verification may be accepted, if necessary.

(2) *Earned income and new deductions.* If the State agencies must act on reported changes in these items in accordance with paragraphs (d)(8)(v) and (d)(8)(vi) of this section.

(iii) *State agency action on changes reported outside of a periodic report.* Unless the State agency has opted to postpone acting on changes permitted under paragraph (d)(8)(ii) of this section, the State agency must act when the household reports that its gross monthly income exceeds the gross monthly income limit for its household size or if the household reports that the work hours of an ABAWD household member fall below the required 20-hour weekly average. The State agency must act on all other changes reported by a household outside of a periodic report in accordance with one of the following two methods:

(A) Act on any change in household circumstances that becomes known to the State agency; or

(B) Act only on changes that result in an increase of the household's SNAP benefits. However, if the State agency chooses this option, it must also act on the following changes that result in a decrease of the household's SNAP benefits:

(1) The household has voluntarily requested that its case be closed in accordance with § 273.13(b)(12);

(2) The State agency has information about the household's circumstances considered verified upon receipt; or

(3) There has been a change in the household's PA grant, or GA grant in project areas where GA and SNAP cases are jointly processed in accord with § 273.2(j)(2).

(iv) *State agency action on changes reported on the periodic report.* The State agency shall promptly determine if a change affects the household's eligibility or benefit level and take appropriate action. If the change is not expected to continue for at least one month beyond the month in which the change is reported, the State agency is not required to act on the change.

(A) *Notifying the household.* The State agency must notify the household of the receipt of the periodic report and how the report affects the household's eligibility or benefit level. The State agency must also provide another periodic report form to the household. The State agency must also advise the household of additional verification requirements, if any, and inform the household that failure to provide verification will result in any increases in benefits reverting to the original level.

(B) *Case file documentation.* The State agency must document receipt of the periodic report in the household's case file, even if there is no change in the household's eligibility or benefit level. The State agency must document the date the report is received. The State agency shall also document the date any other change is reported by the household in addition to the periodic report.

(v) *Changes that increase benefits.* (A) *Timeframes for increasing benefit levels.*

(1) *If verification is required.* If the household provides verification on a timely basis as required by the State agency, the State agency shall increase benefit levels no later than the first allotment issued 10 days after the periodic report was received. If the household does not provide verification on a timely basis as required by the State agency but does provide the verification at a later date, the State agency shall increase benefit levels no later than the first allotment issued 10 days after the verification was received. If the household does not provide required verification, the State agency shall not increase the household's benefits in response to the change reported on the periodic report.

(2) *Household composition or reduced income.* For changes that result in an increase in a household's benefits due to the addition of a new household member who is not a member of another

certified household, or due to a decrease of \$50 or more in the household's gross monthly income, the State agency shall make the change effective not later than the first allotment issued 10 days after the date the change was reported. However, in no event shall these changes take effect any later than the month following the month in which the change is reported. If it is too late for the State agency to adjust the following month's allotment, the State agency shall issue supplementary benefits or otherwise provide an opportunity for the household to obtain the increase in benefits by the 10th day of the following month, or the household's normal issuance cycle in that month, whichever is later. For example, a household reporting a \$100 decrease in income at any time during May would have its June allotment increased. If the household reported the change after the 20th of May and it was too late for the State agency to adjust the benefits normally issued on June 1st, the State agency would issue supplementary benefits for the amount of the increase by June 10th.

(3) *All other changes.* The State agency shall make the change effective no later than the first allotment issued 10 days after the date the change was reported to the State agency. For example, a \$30 decrease in income reported on the 15th of May would increase the household's June allotment. If the same decrease was reported on May 28th, and the household's normal issuance cycle was on June 1st, the household's allotment would have to be increased by July.

(B) *Restoration of benefits.* The State agency shall restore lost benefits if it fails to act on a change that resulted in an increase of benefits and was reported in a timely manner, as described in paragraph (d)(5)(ii) of this section.

(vi) *Changes that decrease benefits.*  
(A) *Timeframes for decreasing benefits.*  
(1) *Notice of Adverse action.* The State agency shall issue a notice of adverse action within 10 days of the date the change was reported, unless one of the exemptions described at § 273.13(a)(3) or (b) applies. The effective date of the benefit reduction shall be no later than the allotment for the month following the month in which the notice of adverse action period has expired, unless the household has requested a fair hearing and continuation of benefits.

(2) *Adequate notice.* If one of the exemptions described at § 273.13(a)(3) or (b) applies, the State agency may issue an adequate notice instead of a notice of adverse action. The adequate notice must arrive no later than the date

the benefit reduction is effective. The effective date of the benefit reduction shall be no later than the month following the change was reported.

(B) *Verified information that reduces benefits.* If the household submits verification of a change results in reduced benefits, the State agency shall establish a claim for the overissuance in accordance with § 273.18. If State agency determines that a household has refused to cooperate as defined in § 273.2(d), the State agency shall issue a notice of adverse action and terminate the household's eligibility. If a household has refused to provide verification as a part of the State agency's reporting system requirements, the household must provide the required verification at a subsequent certification or recertification.

(C) *Suspension of benefits.* The State agency may suspend a household's certification prospectively for 1 month if the household becomes temporarily ineligible because of a periodic increase in recurring income or other change not expected to continue in the subsequent month. If the suspended household again becomes eligible, the State agency shall issue benefits to the household on the household's normal issuance date. If the suspended household does not become eligible after 1 month, the State agency shall terminate the household's certification. Households are responsible for reporting changes as required by paragraphs (d)(8)(i), (d)(8)(iv), or (d)(8)(vi) of this section during the period of suspension.

(vii) *Unclear information.* During the certification period, the State agency may obtain information about changes in a household's circumstances from which the State agency cannot readily determine the effect of the change on the household's benefit amount. The State agency might receive such unclear information from a third party or from the household itself. The State agency must pursue clarification and verification of household circumstances using the following procedure:

(A) *Issue a Request for Contact (RFC).* The State agency must issue a written RFC which clearly advises the household of the verification it must provide or the actions it must take to clarify its circumstances, which affords the household at least 10 days to respond and to clarify its circumstances, either by telephone or by correspondence, as the State agency directs, and which states the consequences if the household fails to respond to the RFC.

(B) *Acceptable response to the RFC.* When the household responds to the RFC and provides sufficient

information, the State agency must act on the new circumstances in accordance with paragraph (d)(8) of this section.

(C) *Failure to respond acceptably to the RFC.* The State agency has two options.

(1) *Option One—Termination.* If the household does not respond to the RFC, or does respond but refuses to provide sufficient information to clarify its circumstances, the State agency must issue a notice of adverse action as described in § 273.13 which terminates the case, explains the reasons for the action, and advises the household of the need to submit a new application if it wishes to continue participating in the program.

(2) *Option Two—Suspension.* If the household does not respond to the RFC, or does respond but refuses to provide sufficient information to clarify its circumstances, the State agency may elect to issue a notice of adverse action as described in § 273.13 which suspends the household for 1 month before the termination becomes effective, explains the reasons for the action, and advises the household of the need to submit a new application if it wishes to continue participating in the program. If a household responds satisfactorily to the RFC during the period of suspension, the State agency must:

- (i) Reinstate the household without requiring a new application;
- (ii) Issue the allotment for the month of suspension; and
- (iii) If necessary, adjust the household's participation with a new notice of adverse action.

\* \* \* \* \*

#### § 273.13 [Amended]

13. Amend paragraph (b)(10) by removing the words "food stamp coupon" and adding in their place the words "Snap benefit".

14. In § 273.14:

- a. Amend paragraph (b)(2) by adding a new fourth sentence; and
- b. Amend the first and fourth sentences of paragraph (b)(3) by removing the words "a face-to-face interview" and adding in their place the words "an interview".

The addition reads as follows:

#### § 273.14 Recertification.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \* The provisions of § 273.2(c)(7) regarding acceptable signatures on applications also apply to applications used at recertification.

\* \* \*

\* \* \* \* \*

15. In § 273.15:

a. Revise the second sentence of paragraph (c)(1);

b. Amend paragraph (c)(2) by removing the word “coupon” and replacing it with the words “SNAP benefit”;

c. Amend paragraph (c)(3) by removing the word “coupon” and replacing it with the words “SNAP benefit”;

d. Amend paragraph (q)(4) by removing the word “coupon” and replacing it with the words “SNAP benefit”; and

e. Amend introductory paragraph(s) by removing the word “coupon” and replacing it with the words “SNAP benefit”.

The revision reads as follows:

#### § 273.15 Fair hearings.

\* \* \* \*

(c) \* \* \*

(1) \* \* \* Decisions that result in an increase in household benefits shall be reflected in the household’s EBT account within 10 days of the receipt of the hearing decision even if the State agency must provide supplementary benefits or otherwise provide the household with an opportunity to obtain the benefits outside of the normal issuance cycle. \* \* \*

\* \* \* \*

16. In § 273.16, revise paragraph (c)(2) to read as follows:

#### § 273.16 Disqualification for internal program violation.

\* \* \* \*

(c) \* \* \*

(2) committed any act that constitutes a violation of SNAP, SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or EBT cards.

\* \* \* \*

#### § 273.18 [Amended]

17. In § 273.18, remove paragraph (f)(4) and redesignate paragraphs (f)(5), (f)(6), and (f)(7) as paragraphs (f)(4), (f)(5), and (f)(6).

18. In § 273.21, revise paragraph (h)(2)(vi) to read as follows:

#### § 273.21 Monthly Reporting and Retrospective Budgeting (MRRB).

\* \* \* \*

(h) \* \* \*

(2) \* \* \*

(vi) Include a statement to be signed by a member of the household (in accordance with § 273.2(c)(7) regarding acceptable methods of signature), indicating his or her understanding that the provided information may result in

changes in the level of benefits, including reduction and termination;

\* \* \* \*

19. In § 273.25:

a. Revise the section heading, and paragraph (a)(1);

b. Amend the heading of (b) and introductory paragraph by removing the word “SFSP” and replacing it with the word “S-SNAP”;

c. Amend paragraph (b)(1) by removing the word “SFSP” and replacing it with the word “S-SNAP and by removing the word “FSP” wherever it occurs and replacing it with the word “SNAP”;

d. Amend paragraphs (b)(2) and (b)(3) by removing the word “SFSP” wherever it occurs and replacing it with the word “S-SNAP”;

e. Amend paragraph (c) by removing the word “SFSP” wherever it occurs in the first sentence and replacing it with the word “S-SNAP” and by revising the third sentence; and

f. Amend paragraphs (d) and (e) by removing the word “SFSP” wherever it occurs and replacing it with the word “S-SNAP”.

The revisions read as follows:

#### § 273.25 Simplified SNAP.

(a) \* \* \*

(1) Simplified SNAP (S-SNAP) means a program authorized under 7 U.S.C. 2035.

\* \* \* \*

(c) \* \* \* The State agency must determine under regular SNAP rules the eligibility and benefits of any household that it has found ineligible for TANF assistance because of time limits, more restrictive resource stands, or other rules that do not apply to SNAP.

\* \* \* \*

20. Revise § 273.26 to read as follows:

#### § 273.26 General eligibility guidelines.

(a) *Eligible programs.* The State agency may elect to provide transitional SNAP benefits to households whose participation in the following programs is ending:

(1) TANF; or

(2) A State-funded cash assistance (SFCA) program that provides assistance to families with children.

(b) *Description of State transitional benefits.* A State agency that chooses to provide transitional benefits must describe features of its transitional SNAP benefits alternative in its plan of operation, as specified in § 272.2(d)(1)(xvi)(H) and as described in §§ 273.26(b)(1)— 273.26(b)(6).

(1) A statement that transitional benefits are available;

(2) The eligible programs by which households may qualify for transitional benefits;

(3) If the State agency is offering transitional benefits through a SFCA program, in addition to TANF, whether the SFCA program participation runs concurrently or sequentially to TANF;

(4) The categories of households eligible for such benefits;

(5) The maximum number of months for which transitional benefits will be provided; and

(6) Any other items required to be included under this subpart H.

(c) *Eligible households.* The State agency may limit transitional benefits to households in which all members had been receiving TANF or SFCA, or it may provide such benefits to any household in which at least one member had been receiving TANF or SFCA.

(d) *Ineligible households.* The State agency may not provide transitional benefits to a household that is leaving TANF or SFCA when:

(1) The household is leaving TANF due to a TANF sanction or the household is leaving the SFCA program due to a SFCA program sanction;

(2) The household is a member of a category of households designated by the State agency as ineligible for transitional benefits;

(3) All household members are ineligible to receive SNAP benefits because they are:

(i) Disqualified for an intentional program violation in accordance with § 273.16;

(ii) Ineligible for failure to comply with a work requirement in accordance with § 273.7;

(iii) Receiving SSI in a cash-out State in accordance with § 273.20;

(iv) Ineligible students in accordance with § 273.5;

(v) Ineligible aliens in accordance with § 273.4;

(vi) Disqualified for failing to provide information necessary for making a determination of eligibility or for completing any subsequent review of its eligibility in accordance with § 273.2(d) and § 273.21(m)(1)(ii);

(vii) Disqualified for knowingly transferring resources for the purpose of qualifying or attempting to qualify for the program as provided at § 273.8(h);

(viii) Disqualified for receipt of multiple SNAP benefits;

(ix) Disqualified for being a fleeing felon in accordance with § 273.11(n); or

(x) ABAWD who fail to comply with the requirements of § 273.24.

(e) *Optional household exclusions.*

The State agency has the option to exclude households where all household members are ineligible to receive SNAP benefits because they are:

(1) Disqualified for failure to perform an action under Federal, State or local law relating to a means-tested public assistance program in accordance with § 273.11(k);

(2) Ineligible for failing to cooperate with child support agencies in accordance with § 273.11(o) and 273.11(p); or

(3) Ineligible for being delinquent in court-ordered child support in accordance with § 273.11(q).

(f) *Recalculating eligibility for denied households.* The State agency must use procedures at § 273.12(f)(3) to determine the continued eligibility and benefit level of households denied transitional benefits under § 273.26.

21. In § 273.27:

a. Revise the first and fourth sentences of paragraph (a); and

b. Revise the first and third sentences of paragraph (c).

The revisions read as follows:

**§ 273.27 General administrative guidelines.**

(a) When a household leaves TANF or a SFCA program, the State agency may freeze for up to 5 months, the household's benefit amount after making an adjustment for the loss of TANF or the SFCA. \* \* \* Before initiating the transitional period, the State agency must recalculate the household's SNAP benefit amount by removing the TANF payment or the

SFCA payment from the household's SNAP income. \* \* \*

\* \* \* \* \*

(c) When a household leaves TANF or the SFCA program, the State agency at its option may end the household's existing certification period and assign the household a new certification period that conforms to the transitional period.

\* \* \* If the transitional period results in a shortening of the household's certification period, the State agency shall not issue a household a notice of adverse action under § 273.10(f)(4) but shall specify in the transitional notice required under § 273.29 that the household must be recertified when it reaches the end of the transitional benefit period or if it returns to TANF or the SFCA program during the transitional period.

22. In § 273.29, revise paragraphs (c) and (d) to read as follows:

**§ 273.29 Transitional notice requirements.**

\* \* \* \* \*

(c) A statement that if the household returns to TANF or the SFCA program during its transitional benefit period, the State agency will either reevaluate the household's SNAP case or require the household to undergo a recertification. However, if the household has been assigned a new certification period in accordance with § 273.27(c), the notice must inform the household that it must be recertified if

it returns to TANF or the SFCA program during its transitional period;

(d) A statement explaining any changes in the household's benefit amount due to the loss of TANF income or SFCA program income and/or changes in household circumstances learned from another State or Federal means-tested assistance program;

\* \* \* \* \*

23. In § 273.32, revise the heading and the first and third sentences to read as follows:

**§ 273.32 Households who return to TANF or a SFCA program during the transitional period.**

If a household receiving transitional benefits returns to TANF or the SFCA program during the transitional period, the State agency shall end the household's transitional benefits and follow the procedures in § 273.31 to determine the household's continued eligibility and benefits for SNAP. \* \* \* However, for a household assigned a new certification period in accordance with § 273.27(c), the household must be recertified if it returns to TANF or the SFCA program during its transitional period.

Dated: April 20, 2011.

**Kevin Concannon,**

*Under Secretary, Food, Nutrition and Consumer Services.*

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